

PACIFIC DRILLING S.A.

FORM 6-K (Report of Foreign Issuer)

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WASHINGTON, D.C. 20549

FORM 6-K

REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO RULE 13a-16 OR 15d-16 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Date of Report: June 7, 2013

Commission File Number 001-35345

PACIFIC DRILLING S.A.

37, rue d'Anvers L-1130 Luxembourg (Address of principal executive offices)

Form	Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F. 20-F ⊠ Form 40-F □
	Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule $101(b)(1)$: \Box .
	Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7): \Box .
infor	Indicate by check mark whether the registrant by furnishing the information contained in this Form, is also thereby furnishing the mation to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934. Yes □ No ⊠
	If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b):

INFORMATION CONTAINED IN THIS FORM 6-K REPORT

Indenture

On June 3, 2013, Pacific Drilling S.A. (the "Company") completed a private placement to eligible purchasers of \$750.0 million aggregate principal amount of its 5.375% Senior Secured Notes due 2020 (the "Notes"). The Notes are guaranteed by each of the Company's subsidiaries that own the *Pacific Bora*, the *Pacific Mistral*, the *Pacific Scirocco* or the *Pacific Santa Ana* (the "Collateral Vessels"), each subsidiary that owns equity in a Collateral Vessel-owning subsidiary, certain other subsidiaries that are parties to charters in respect of the Collateral Vessels and certain other future subsidiaries. The Notes constitute a new series of debt securities under an indenture dated June 3, 2013 (the "Indenture"), among the Company, the guarantors (the "Guarantors") and Deutsche Bank Trust Company Americas, as Trustee (in such capacity, the "Trustee"). The Notes are secured as set forth in the Indenture and in the security documents described therein. Capitalized terms used but not defined in this section shall have the meaning ascribed to them in the Indenture.

The Notes were sold at par. Net proceeds from the offering of the Notes, together with the net proceeds from the senior secured term loan (described below), were used to repay the \$1.35 billion in outstanding borrowings under the Company's Third Amended and Restated Project Facilities Agreement, after which it was terminated, and the balance will be used for general corporate purposes. In connection with the offering of the Notes and entry into the senior secured term loan, the Company entered into the senior secured revolving credit facility (described below), under which letters of credit outstanding under the Company's temporary import bond credit facilities (the "TI Bond Facilities") were deemed to be issued under our new revolving credit facility, and the TI Bond Facilities were terminated.

The Notes will mature on June 1, 2020. The Company will pay interest on the Notes on June 1 and December 1 of each year, commencing on December 1, 2013.

The Notes will be secured, on an equal and ratable, first priority basis, with the obligations under the senior secured revolving credit facility, the senior secured term loan and certain future obligations (together with the Notes, the "Pari Passu Obligations"), subject to payment priorities in favor of lenders under the senior secured revolving credit facility pursuant to the terms of an intercreditor agreement (the "Intercreditor Agreement"), by liens on the Collateral Vessels, a pledge of the equity of the entities that own the Collateral Vessels, assignments of earnings and insurance proceeds with respect to the Collateral Vessels, and certain other assets of the subsidiary guarantors (collectively, the "Collateral").

The Notes and the guarantees (together, the "Securities") were sold to the initial purchasers in reliance on the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act"), and the initial purchasers offered and sold the Securities in private transactions under Rule 144A and Regulation S under the Securities Act. The Securities have not been registered under the Securities Act or applicable state securities laws and may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements of the Securities Act and applicable state laws.

On or after June 1, 2016, the Company may, at its option, redeem the Notes, in whole or in part, at one time or from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest and additional amounts, if any, on the notes redeemed, to the applicable redemption date, subject to the rights of holders of the Notes on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on June 1 of the years indicated below:

Year	Percentage
<u>Year</u> 2016	104.031%
2017	102.688%
2018	101.344%
2019 and thereafter	100.000%

Prior to June 1, 2016, the Company may redeem all or any portion of the Notes at a redemption price equal to 100% of the principal amount of the outstanding Notes plus accrued and unpaid interest and additional amounts, if any, to the redemption date, plus a "make-whole" premium.

In addition, prior to June 1, 2016, the Company may, at its option, on one or more occasions redeem up to 35% of the aggregate original principal amount of the Notes (including any additional Notes) with the net cash proceeds from certain equity offerings at a redemption price of 105.375% of the principal amount of the outstanding Notes plus accrued and unpaid interest and additional amounts, if any, to the redemption date.

The Company may also, prior to June 1, 2016, redeem up to 10% of the original aggregate principal amount of the Notes in any 12-month period at a redemption price equal to 103% of the aggregate principal amount thereof plus accrued and unpaid interest and additional amounts, if any, to the redemption date.

The Company may from time to time issue additional notes under the Indenture in an aggregate amount not to exceed \$100.0 million, which additional notes will have identical terms and conditions as the Notes, other than issue date, issue price and, in certain circumstances, the date from which interest will accrue.

The Indenture contains covenants that, among other things, will limit the Company's and its restricted subsidiaries' ability to:

- pay dividends, purchase or redeem the Company's capital stock or its or its subsidiary guarantors' subordinated indebtedness or make other restricted payments, provided that (as more fully described in the Indenture), so long as there is no default under the Indenture and the Company meets a 2.0:1.0 consolidated interest coverage ratio test, the Company may pay dividends and make other restricted payments in a cumulative amount that does not exceed 50% of the Company's consolidated net income for the period beginning October 1, 2012 and ending on last day of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such dividend (subject to certain adjustments more fully described in the Indenture);
- incur or guarantee additional indebtedness or issue preferred stock;
- create or incur liens;
- create unrestricted subsidiaries;
- enter into transactions with affiliates:
- enter into new lines of business; and
- transfer or sell assets or enter into mergers.

The Indenture also contains covenants that limit the Company's and its subsidiaries' ability to consummate a merger or consolidation and that limit its ability to consummate a sale of all or substantially all of their assets.

These covenants are subject to important exceptions and qualifications set forth in the Indenture, including the ability to incur certain amounts of secured indebtedness to finance the construction of additional drillships. Many of these covenants will cease to apply to the Notes during any period that the Notes have investment grade ratings from both Moody's Investors Service, Inc. and Standard & Poor's Ratings Group, Inc. and no default has occurred and is continuing under the Indenture.

The Indenture contains events of default that are usual and customary for a financing of this type, size and purpose. Upon the occurrence of an event of default, the Notes are subject to acceleration.

The description of the Indenture contained in this Form 6-K Report does not purport to be complete and is qualified in its entirety by reference to the full text of the Indenture and the form of the Notes, which are filed herewith as Exhibits 99.1 and 99.2, respectively, and incorporated herein by reference.

Senior Secured Term Loan

On June 3, 2013, the Company entered into a new senior secured term loan for \$750.0 million, which is secured by the Collateral and subject to the terms and provisions of the Intercreditor Agreement (defined below). Citibank, N.A. will act as administrative agent in respect of the senior secured term loan.

The senior secured term loan was issued at 99.5% of its face value and will bear interest, at the Company's election, at either (1) the London Interbank Offered rate ("LIBOR"), which will not be less than a floor of 1.00% plus a margin of 3.50% per annum, or (2) a rate of interest per annum equal to the highest of (i) the prime rate for such day, (ii) the sum of the federal funds rate plus 0.5% and (iii) 1% per annum above the 1-month LIBOR, in each case plus a margin of 2.50% per annum. In addition, the senior secured term loan has an accordion feature that would permit additional loans to be extended so long as the Company's total outstanding obligations in connection with the senior secured term loan and the Notes do not exceed \$1.7 billion. The maturity date for loans issued under the senior secured term loan will be June 3, 2018.

Borrowings under the senior secured term loan may be prepaid, on or prior to June 3, 2014, so long as such prepayments are, in the event of a refinancing or reduction in the pricing of the senior secured term loan, accompanied by a prepayment fee equal to 1% of the aggregate principal amount of such prepayment. After June 3, 2014, borrowings under the senior secured term loan may be prepaid without any premium or penalty.

The senior secured term loan will require compliance with certain affirmative and negative covenants that are customary for such financings. These include, but are not limited to, restrictions on (i) the Company's ability to pay dividends to its shareholders (except for certain specified exceptions, including (as more fully described in the senior secured term loan) that so long as there is no default under the senior secured term loan and the Company meets a 2.0:1.0 consolidated interest coverage ratio test, the Company may pay dividends in a cumulative amount that does not exceed 50% of the Company's consolidated net income for the period beginning October 1, 2012 and ending on last day of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such dividend (subject to certain adjustments more fully described in the senior secured term loan)) and (ii) the Company's and its subsidiaries' ability to incur additional indebtedness or liens, sell assets, make investments or engage in transactions with affiliates (except for certain specified exceptions, including the ability to incur certain amounts of secured indebtedness to finance the construction of additional drillships).

The senior secured term loan contains events of default that are usual and customary for a financing of this type, size and purpose. Upon the occurrence of an event of default, borrowings under the senior secured term loan are subject to acceleration.

The description of the senior secured term loan contained in this Form 6-K Report does not purport to be complete and is qualified in its entirety by reference to the full text of the Term Loan Agreement, which is filed herewith as Exhibits 99.3 and incorporated herein by reference.

Senior Secured Revolving Credit Facility

On June 3, 2013, the Company entered into a senior secured revolving credit facility with an aggregate principal amount of up to \$500.0 million, which is secured by the Collateral and subject to the provisions of the Intercreditor Agreement. Citibank, N.A. will act as administrative agent in respect of the facility. At the closing of the senior secured revolving credit facility, approximately \$204 million of letters of credit outstanding under the TI Bond Facilities were deemed to be issued under the senior secured revolving credit facility, and the TI Bond Facilities were terminated. No amounts were drawn under the senior secured revolving credit facility at closing.

The senior secured revolving credit facility has a maturity date of June 3, 2018. Borrowings under the senior secured revolving credit facility will bear interest, at the Company's option, at either (1) LIBOR plus a margin ranging from 2.50% to 3.25% based on the Company's leverage ratio, or (2) a rate of interest per annum equal to the highest of (1) the prime rate for such day, (ii) the sum of the federal funds rate plus 0.5% and (iii) 1% per annum above the 1-month LIBOR, in each case plus a margin ranging from 1.50% to 2.25% based on the Company's leverage ratio. Undrawn commitments shall accrue a fee ranging from 0.70% to 1.00% per annum based on the Company's leverage ratio. The senior secured revolving credit facility will permit up to \$200 million of loans to be extended and will permit letters of credit to be issued thereunder up to a maximum sublimit of \$300 million. Outstanding but undrawn letters of credit shall accrue a fee at a rate equal to the margin on LIBOR loans minus 1.00%. The senior secured credit facility is secured by the same collateral as the Notes and the senior secured term loan.

Borrowings under the senior secured revolving credit facility may be prepaid, and commitments under the senior secured revolving credit facility may be reduced, in whole or in part at any time, without any premium or penalty other than LIBOR breakage payments.

The senior secured revolving credit facility will require compliance with certain affirmative and negative covenants that are customary for such financings. These include, but are not limited to, restrictions on (i) the Company's ability to pay dividends to its shareholders (except for certain specified exceptions, including that the Company may pay dividends (as more fully described in the senior secured revolving credit facility) so long as there is no default under the senior secured revolving credit facility and the Company is in pro forma compliance with the leverage ratio and minimum liquidity tests described below after giving effect to such dividend) and (ii) the Company's and its subsidiaries' ability to incur additional indebtedness or liens, sell assets, make investments or engage in transactions with affiliates (except for certain specified exceptions, including the ability to incur certain amounts of secured indebtedness to finance the construction of additional drillships).

The senior secured revolving credit facility will also require the Company to maintain (i) a leverage ratio (adjusted net debt to adjusted EBITDA) no greater than, 5.75 to 1.00 during the period from December 31, 2013 through March 31, 2014, 5.25 to 1.00, during the period from June 30, 2014 and December 31, 2014, 4.75 to 1.00, during the period from March 31, 2015 through September 30, 2015, 4.25 to 1.00, during the period from December 31, 2015 and thereafter, each on the last day of any fiscal quarter; and (ii) minimum liquidity of \$100.0 million (including undrawn capacity for loans under the revolving credit facility); provided that, if at any time following the repayment in full of the senior secured credit facility agreement entered into by subsidiaries of the Company to finance the construction, operation and other costs associated with the *Pacific Sharav* and the *Pacific Meltem* no non-U.S. dollar denominated letters of credit are outstanding, then such amount shall be reduced to U.S. \$50.0 million.

The senior secured revolving credit facility contains events of default that are usual and customary for a financing of this type, size and purpose. Upon the occurrence of an event of default, (i) commitments and letters of credit under the senior secured revolving credit facility agreement will be subject to termination, (ii) borrowings under the senior secured revolving credit facility will be subject to acceleration, and (iii) outstanding letters of credit will be subject to cash collateralization.

The description of the senior secured revolving credit facility contained in this Form 6-K Report does not purport to be complete and is qualified in its entirety by reference to the full text of the Credit Agreement, which is filed herewith as Exhibits 99.4 and incorporated herein by reference.

Intercreditor Agreement

On June 3, 2013, the Company entered into an Intercreditor Agreement, by and among Citibank, N.A., as Pari Passu Collateral Agent for the Pari Passu Secured Parties, Citibank, N.A., as administrative agent for the Revolving Credit Agreement Secured Parties, Citibank, N.A., as administrative agent for the Term Loan Secured Parties, the Trustee, as trustee under the Indenture, the Company and each other Grantor and other party signatory thereto or that has executed a Joinder Consent Agreement. Capitalized terms used but not defined in this section shall have the meaning ascribed to them in the Intercreditor Agreement.

The allocation of the proceeds of the Collateral among the Notes, the senior secured term loan and the senior secured revolving credit facility will be governed by the Intercreditor Agreement. The Intercreditor Agreement provides that (i) the senior secured revolving credit facility will have priority of payment as to the proceeds of the Collateral securing obligations up to an original principal amount of \$600.0 million and (ii) subsequent to the satisfaction in full of the senior secured revolving credit facility, the senior secured term loan and the Notes will be entitled to the proceeds of the Collateral on a pari passu basis. The Controlling Agent will control (i) the exercise of remedies relating to the Collateral and (ii) certain amendments to the Security

Documents governing the Collateral, including release of liens thereunder. The administration agent for the Revolving Credit Agreement Secured Parties will be the initial Collateral Agent.

The description of the Intercreditor Agreement contained in this Form 6-K Report does not purport to be complete and is qualified in its entirety by reference to the full text of the Intercreditor Agreement, which is filed herewith as Exhibits 99.5 and incorporated herein by reference.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Pacific Drilling S.A.

(Registrant)

By: /s/ Kinga E. Doris

Kinga E. Doris

Vice President, General Counsel and Secretary

Dated: June 7, 2013

The following exhibits are filed as part of this Form 6-K Report:

Exhibit	Description
99.1	Indenture, dated as of June 3, 2013, among Pacific Drilling S.A., the guarantors party thereto and Deutsche Bank Trust Company Americas, as Trustee.
99.2	Form of Note (included as Exhibit 1 to Appendix of Exhibit 99.1 of this Form 6-K Report).
99.3	Term Loan Agreement, dated as of June 3, 2013, among Pacific Drilling S.A., as Borrower, Various Lenders and Citibank, N.A., as Administrative Agent, Citigroup Global Markets, Inc., Goldman Sachs Lending Partners LLC, Deutsche Bank Securities Inc. and Barclays Bank PLC, as Joint Lead Arrangers, Joint Bookrunners and Joint Syndication Agents and ABN AMRO Securities (USA) LLC, Credit Agricole Securities (USA) Inc., ING Financial Markets LLC, Nordea Bank Danmark A/S, Pareto Securities AS, RS Platou Markets AS, Scotia Capital (USA) Inc., Skandinaviska Enskilda Banken AB (Publ.), Standard Chartered Bank and NIBC Bank N.V., as Co-Documentation Agents and Co-Syndication Agents.
99.4	Credit Agreement, dated as of June 3, 2013, among Pacific Drilling S.A., as Borrower, Various Lenders and Citibank, N.A., as Administrative Agent and Issuing Lender, Citigroup Global Markets Inc., Goldman Sachs Bank USA and Deutsche Bank Securities Inc., as Join Lead Arrangers and Joint Bookrunners, Barclays Bank PLC, as Joint Bookrunners and Citigroup Global Markets Inc., as Syndication Agent.
99.5	Intercreditor Agreement, dated as of June 3, 2013, by and among Citibank, N.A., as Pari Passu Collateral Agent for the Pari Passu Secured Parties, Citibank, N.A., as administrative agent for the Revolving Credit Agreement Secured Parties, Citibank, N.A., as administrative agent for the Term Loan Secured Parties, the Trustee, as trustee under the Indenture, the Company and each other Grantor and other party signatory thereto or that has executed a Joinder Consent Agreement.

PACIFIC DRILLING S.A.,

AND

EACH OF THE GUARANTORS PARTY HERETO

5.375% SENIOR SECURED NOTES DUE 2020

INDENTURE

Dated as of June 3, 2013

DEUTSCHE BANK TRUST COMPANY AMERICAS,

as Trustee

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APPENDIX AND ANNEX

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RULE 144A/REGULATION S APPENDIX Exhibit 1 to App. - 1 **EXHIBIT 1 Form of Note** ANNEX A Form of Supplemental Indenture

This INDENTURE, dated as of June 3, 2013 is among PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* (the "*Company*"), each GUARANTOR from time to time party hereto, as Guarantors, and DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, as Trustee.

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders of (a) the Company's 5.375% Senior Secured Notes due 2020 issued on the Issue Date (the "Initial Notes") and (b) any Additional Notes (as defined herein) that may be issued after the Issue Date (all such Notes in clauses (a) and (b) being referred to collectively as the "Notes"):

ARTICLE 1 DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

- "Acquired Debt" means, with respect to any specified Person:
- (1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person (regardless of the form of the applicable transaction by which such Person became a Subsidiary) or expressly assumed in connection with the acquisition of assets from any other such Person, whether or not such Indebtedness is Incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person or of such Indebtedness being Incurred in connection with the acquisition of assets; and
 - (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

Acquired Debt will be deemed to be Incurred on the date the acquired Person becomes a Restricted Subsidiary of such Person or the date of the acquisition of assets from such Person, as applicable.

- "Additional Notes" means Notes issued under this Indenture after the Issue Date and in compliance with <u>Sections 2.14</u> and <u>4.09</u>, it being understood that any Notes issued in replacement of any Note issued on the Issue Date shall not be an Additional Note.
 - "Additional Notes Amount" means \$100.0 million.
 - "Additional Vessel" means a drilling rig or drillship or other Vessel that is used or useful in a Permitted Business.
- "Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct or cause the direction of the management and

policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

- "Agents" shall mean, collectively, the Trustee, the Collateral Agent, the Registrar, the Paying Agent and any other agents under the Indenture Documents from time to time.
 - "Applicable Premium" means, with respect to any Note on any redemption date, the greater of:
 - (1) 1.0% of the principal amount of the Note; and
 - (2) the excess of: (a) the present value at such redemption date of (i) the redemption price of the Note at June 1, 2016 (such redemption price being set forth in the table appearing in Section 3.07(d), excluding accrued and unpaid interest and Additional Amounts to the redemption date), plus (ii) all required interest payments due on the Note through June 1, 2016 (excluding accrued but unpaid interest and Additional Amounts to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over (b) the principal amount of the Note.
- "Appraised Value" in respect of any Vessel means the average of the most recent Broker Appraisals of two separate Approved Brokers for such Vessel; provided however, that no Broker Appraisal used in such calculation shall have been delivered more than 12 months prior to the relevant date of determination.
- "Approved Broker" means each of Fearnleys, RS Platou, ODS Petrodata, Clarksons, Noble Denton, Pareto and each other Person that is an independent shipbroker of recognized standing in the shipping and offshore drilling industries.
 - "Agent Members" has the meaning provided in the Appendix.
 - "Asset Sale" means:
 - (1) any sale, transfer, lease, conveyance or other disposition, whether in a single transaction or a series of related transactions, of property or assets of the Company or any of the Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction; *provided* that the sale, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, will not be an "Asset Sale," but will be governed by the provisions of Section 4.15 and/or the provisions of Section 5.01 and not by the provisions of Section 4.10;
 - (2) the issuance or sale of Equity Interests of any Restricted Subsidiary, other than directors' qualifying shares and/or other Equity Interests that are required to be held by any Persons other than the Company or another Restricted Subsidiary under applicable law or regulation (including local content regulations or requirements), whether in a single transaction or a series of related transactions; and
 - (3) an Involuntary Transfer.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$25.0 million (and the sale of such assets generates Net Proceeds of less than \$25.0 million);
 - (2) a transfer of Equity Interests or other assets between or among the Company and the Restricted Subsidiaries;
 - (3) an issuance of Equity Interests by a Restricted Subsidiary to the Company or to another Restricted Subsidiary;
- (4) the sale, transfer, lease or other disposition of products, services or accounts receivable or any charter, pool agreement, drilling contract or lease of a Vessel and any related assets in the ordinary course of business and any sale or conveyance or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business;
 - (5) sales of assets to any customer purchased on behalf of or at the request of such customer in the ordinary course of business;
 - (6) the sale or other disposition of cash or Cash Equivalents, hedging contracts or other financial instruments;
- (7) licenses and sublicenses by the Company or any of the Restricted Subsidiaries of software or intellectual property in the ordinary course of business;
 - (8) a Restricted Payment that does not violate Section 4.07 or a Permitted Investment;
- (9) the creation or perfection of any Lien permitted under this Indenture, and any disposition of assets constituting Collateral resulting from foreclosure under any such Lien by the Collateral Agent, or any disposition of assets not constituting Collateral resulting from foreclosure under any such Lien; and
 - (10) any surrender or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims.
 - "Assignments" means, collectively, each Insurance Assignment and Earnings Assignment.
- "Attributable Indebtedness" in respect of a Sale and Lease-Back Transaction means, at the time any determination is to be made, the present value (discounted according to GAAP at the cost of indebtedness implied in the lease; provided that if such discount rate cannot be determined in accordance with GAAP, the present value shall be discounted at the interest rate

borne by the Notes, compounded annually) of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale and Lease-Back Transaction (including any period for which such lease has been extended); *provided*, *however*, that if such Sale and Lease-Back Transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

- "Authorized Representative" means (a) in the case of the Revolving Credit Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agent, (b) in the case of the Term Loan Obligations or the Term Loan Secured Parties, the Term Loan Agent, (c) in the case of the Notes Obligations or the Trustee and the holders of the notes, the Trustee, and (d) in the case of any Series of Other Pari Passu Obligations or Other Pari Passu Secured Parties that become subject to the Intercreditor Agreement after the Issue Date, the Authorized Representative named for such Series in the applicable joinder agreement to the Intercreditor Agreement.
- "Bankruptcy Law" means Title 11 of the United States Code, as may be amended from time to time, or any similar federal, state or foreign law for the relief of debtors.
- "Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have corresponding meanings.
 - "Board of Directors" means:
 - (1) with respect to a corporation, the Board of Directors of the corporation or, except in the context of the definition of "Change of Control" and "Continuing Directors," any committee thereof duly authorized to act on behalf of such Board of Directors;
 - (2) with respect to a partnership, the Board of Directors of the general partner of the partnership;
 - (3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or the manager or any committee of managers; and
 - (4) with respect to any other Person, the board or committee of such Person serving a similar function.
 - "Broker Appraisal" means a desktop appraisal of the fair market value of a Vessel, as determined by an Approved Broker.

- "Business Day" means any day other than a Saturday, Sunday or any other day on which banking institutions in New York, New York, Houston, Texas, Luxembourg or any place of payment under this Indenture are authorized or required by law to close.
- "Capital Lease Obligation" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP as in effect on the Issue Date, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.

"Capital Stock" means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"Cash Equivalents" means:

- (1) securities issued or directly and fully guaranteed or insured by the government of the United States or any other country whose sovereign debt has a rating of at least A3 from Moody's and at least A- from S&P or any agency or instrumentality thereof having maturities of not more than twelve months from the date of acquisition;
- (2) certificates of deposit, demand deposits and Eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank organized under the laws of any country that is a member of the Organization for Economic Cooperation and Development having capital and surplus in excess of \$500.0 million (or the equivalent thereof in any other currency or currency unit);
- (3) marketable general obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition thereof, having a credit rating of "A" or better from either S&P or Moody's;

- (4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (1), (2) and (3) above entered into with any financial institution meeting the qualifications specified in clause (2) above;
- (5) commercial paper having one of the two highest ratings obtainable from Moody's or S&P, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings or investments, and, in each case, maturing within one year after the date of acquisition;
- (6) money market mutual funds substantially all of the assets of which are of the type described in the foregoing clauses (1) through (5) of this definition; and
- (7) in the case of the Company or any Subsidiary of the Company organized or having its principal place of business outside the United States, investments denominated in the currency of the jurisdiction in which such Person is organized or has its principal place of business or conducts business which are similar to the items specified in clauses (1) through (6) of this definition.
- "Change of Control" means the occurrence of any of the following:
- (1) the direct or indirect sale, lease (other than pursuant to any Drilling Contract or other charterparty, pool agreement or drilling contract in respect of any Vessel), transfer, conveyance or other disposition (other than by way of amalgamation, merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Company and the Restricted Subsidiaries, taken as a whole, to any "person" (as that term is used in Section 13(d) of the Exchange Act) other than a Permitted Holder or a Restricted Subsidiary;
 - (2) the Company is liquidated or dissolved, or a plan relating to the liquidation or dissolution of the Company is adopted;
- (3) the consummation of any transaction or any series of transactions (including, without limitation, any merger, consolidation or other business combination), the result of which is that any Person (including any "person" (as defined above)), other than one or more Permitted Holders, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Company, measured by voting power rather than number of shares, in each case other than any transaction in which the holders of the Company's Voting Stock immediately prior to such transaction own, immediately after such transaction, a majority of the Voting Stock of the successor or acquiring Person or any parent thereof; or
- (4) the first day on which a majority of the members of the Board of Directors of the Company are not Continuing Directors.
- "Clearstream" means Clearstream Banking, société anonyme, or any successor securities clearing agency.

- "Collateral" means all rights, assets and properties, whether now owned or hereafter acquired, upon which a Lien is granted or purported to be granted under any Collateral Agreement. Collateral shall not include Excluded Property.
- "Collateral Agent" means the collateral agent for all holders of Pari Passu Obligations. Citibank N.A. will initially serve as the Collateral Agent.
- "Collateral Agreements" means, collectively, each Assignment, Mortgage, Pledge Agreement, Security Agreement, the Intercreditor Agreement and each other instrument, including any assignment, security agreement, mortgage, deed, pledge agreement or other security instrument, creating Liens in favor of the Collateral Agent as required by the Pari Passu Documents or the Intercreditor Agreement, in each case, as the same may be in effect from time to time.
 - "Collateral Grantor" means each Guarantor that is party to a Collateral Agreement.
 - "Collateral Vessel-Owning Subsidiary" means each of the Company's Subsidiaries that owns an interest in any Collateral Vessel.
- "Collateral Vessels" means, collectively, the Liberian flag (or other applicable future flag) vessels the Pacific Bora, the Pacific Mistral, the Pacific Scirocco and the Pacific Santa Ana.
 - "Company" has the meaning provided in the introductory paragraph hereto.
- "Consolidated Cash Flow" means, with respect to any period, the Consolidated Net Income of the Company for such period plus, without duplication:
 - (1) provision for taxes based on income or profits of the Company and the Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*
 - (2) Consolidated Interest Expense of the Company and the Restricted Subsidiaries for such period to the extent that such Consolidated Interest Expense was deducted in computing such Consolidated Net Income; *plus*
 - (3) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of the Company and the Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *minus*
 - (4) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

- "Consolidated Interest Coverage Ratio" means, for any period, the ratio of the Consolidated Cash Flow of the Company for such period to the Consolidated Interest Expense of the Company for such period; provided, however, that:
 - (1) if the Company or any of the Restricted Subsidiaries has Incurred any Indebtedness since the beginning of such period that remains outstanding on the date a determination of the Consolidated Interest Coverage Ratio is to be made, or if the transaction giving rise to the need to calculate the Consolidated Interest Coverage Ratio is an Incurrence of Indebtedness, or both (in each case other than working capital borrowings under a revolving credit facility), Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated after giving effect on a pro forma basis to such Indebtedness as if such Indebtedness had been Incurred on the first day of such period;
 - (2) if the Company or any of the Restricted Subsidiaries has repaid, repurchased, defeased or otherwise discharged any Indebtedness since the beginning of such period that is no longer outstanding on such date of determination, or if any Indebtedness is to be repaid, repurchased, defeased or otherwise discharged (in each case other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and the related commitment has been terminated) on the date of the transaction giving rise to the need to calculate the Consolidated Interest Coverage Ratio, Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated on a pro forma basis as if such repayment, repurchase, defeasance or discharge had occurred on the first day of such period;
 - (3) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have made any Asset Sale, Consolidated Cash Flow for such period shall be reduced by an amount equal to the Consolidated Cash Flow (if positive) directly attributable to the assets which are the subject of such Asset Sale for such period, or increased by an amount equal to the Consolidated Cash Flow (if negative) directly attributable thereto for such period, and Consolidated Interest Expense for such period shall be reduced by an amount equal to the Consolidated Interest Expense directly attributable to any Indebtedness of the Company or any Restricted Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Company and the continuing Restricted Subsidiaries in connection with such Asset Sale for such period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Interest Expense for such period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Company and the continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such sale);
 - (4) if, since the beginning of such period, any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Asset Sale, any Investment or acquisition of assets that would have required an adjustment pursuant to clause (3) above or (7) or (8) below if made by the Company or a Restricted

Subsidiary during such period, Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto as if such Asset Sale, Investment or acquisition had occurred on the first day of such period;

- (5) if, since the beginning of such period, any Person was designated as an Unrestricted Subsidiary or redesignated as or otherwise became a Restricted Subsidiary, Consolidated Cash Flow and Consolidated Interest Expense shall be calculated as if such event had occurred on the first day of such period;
- (6) Consolidated Cash Flow and Consolidated Interest Expense of discontinued operations recorded on or after the date such operations are classified as discontinued in accordance with GAAP shall be excluded but, with respect to Consolidated Interest Expense, only to the extent that the obligations giving rise to such Consolidated Interest Expense will not be obligations of the Company or any of the Restricted Subsidiaries following such classification;
- (7) if, since the beginning of such period, the Company or any Restricted Subsidiary shall have (i) by merger or otherwise, made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary or is merged with or into the Company or a Restricted Subsidiary), or (ii) acquired assets constituting all or substantially all of an operating unit of a business or an Additional Vessel, Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto, as determined in good faith by a Financial Officer of the Company (including, without limitation, the Incurrence of any Indebtedness) as if such Investment or acquisition had occurred on the first day of such period; and
- (8) if the Company or any Restricted Subsidiary shall have entered into an agreement to build or acquire an Additional Vessel Unit that at the time of calculation is being constructed on behalf of the Company or such Restricted Subsidiary, is scheduled for delivery no later than 1 year from the time of calculation and is, or is reasonably expected to be upon delivery (as determined by the Board of Directors of the Company), subject to a Qualified Services Contract, then Consolidated Cash Flow and Consolidated Interest Expense for such period may, at the Company's election, be calculated after giving pro forma effect thereto as if the Additional Vessel subject to such committed construction contract had been acquired by the Company or such Restricted Subsidiary on the first day of such period.

Any pro forma calculations giving effect to the acquisition of an Additional Vessel or to a committed construction contract with respect to an Additional Vessel that is, or is reasonably expected to be, subject to a Qualified Services Contract shall be made as follows:

- (a) the amount of Consolidated Cash Flow attributable to such Additional Vessel shall be calculated in good faith by a Financial Officer of the Company;
- (b) in the case of earned revenues under a Qualified Services Contract, the Consolidated Cash Flow shall be based on revenues actually earned pursuant

to the Qualified Services Contract relating to such Additional Vessel or Additional Vessels, taking into account, where applicable, only actual expenses Incurred without duplication in any measurement period;

- (c) the amount of Consolidated Cash Flow shall be the lesser of the Consolidated Cash Flow derived on a pro forma basis from revenues for (i) the first full year of the Qualified Services Contract and (ii) the average of the Consolidated Cash Flow of each year of such Qualified Services Contract for the term of the Qualified Services Contract, or in the case of an Additional Vessel not subject to a Qualified Services Contract, the Consolidated Cash Flow shall be based upon average of the historical earnings of comparable Vessels in the Company's and its Restricted Subsidiaries' fleet over the most recently completed four fiscal quarters, as determined in good faith by a responsible financial or accounting officer of the Company;
- (d) in determining the estimated expenses attributable to such Additional Vessel, the calculation shall give effect to the interest expense attributable to the Incurrence, assumption or guarantee of any Indebtedness (including Indebtedness that is anticipated to be Incurred following the time of calculation in order to consummate the construction, acquisition and/or delivery of the Additional Vessel) relating to the construction, delivery and/or acquisition of such Additional Vessel; and
- (e) with respect to any expenses attributable to an Additional Vessel, if the actual expenses differ from the estimate, the actual amount shall be used in such calculation.
- "Consolidated Interest Expense" means, with respect to any Person for any period, the sum, without duplication, of:
- (1) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Indebtedness, commissions, discounts and other fees and charges Incurred in respect of letter of credit or bankers' acceptance financings, and net payments (if any) pursuant to interest rate Hedging Obligations, but excluding:
 - (a) amortization of debt issuance costs; and
 - (b) any nonrecurring charges relating to any premium or penalty paid, write-off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its Stated Maturity, to the extent that any of such nonrecurring charges constitute interest expense);

- (2) the consolidated interest expense of such Person and any Restricted Subsidiaries that was capitalized during such period; and
- (3) all dividends, whether paid or accrued and whether or not in cash, in respect of any Preferred Stock of any Restricted Subsidiary or any Disqualified Stock of the Company or any Restricted Subsidiary, other than (x) dividends payable solely in Equity Interests (other than Disqualified Stock) and (y) dividends payable to the Company or any Restricted Subsidiary.
- "Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP; provided that:
 - (1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the specified Person during such period;
 - (2) solely for the purpose of determining the amount available for Restricted Payments under <u>clause (III)(A)</u> of <u>Section 4.07(a)</u>, the Net Income (but not loss) of any Restricted Subsidiary of such Person (other than a Restricted Subsidiary that is a Guarantor) will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, in each case other than by reason of restrictions in the Revolving Credit Agreement, the Term Loan Agreement, the Senior Secured Credit Facility Agreement or the Existing PDV Notes indenture, in each case, as in effect on the Issue Date; *provided* that if Net Income is excluded by operation of this provision with respect to a period because of restrictions on dividends or distributions applicable during such period that cease to apply in a subsequent period, such restrictions shall be deemed not to have applied in the initial period in subsequent calculations under this definition;
 - (3) the cumulative effect of a change in accounting principles will be excluded;
 - (4) non-cash gains and losses due solely to fluctuations in currency values will be excluded;
 - (5) in the case of a successor to the referenced Person by consolidation or merger or as a transferee of the referenced Person's assets, any earnings (or losses) of the successor corporation prior to such consolidation, merger or transfer of assets will be excluded;
 - (6) the effects resulting from the application of purchase accounting in relation to any acquisition that is consummated after the Issue Date will be excluded;

- (7) any unrealized gain (or loss) in respect of Hedging Obligations will be excluded;
- (8) non-cash charges or expenses with respect to the grant of stock options, restricted stock or other equity compensation awards will be excluded; and
- (9) goodwill write-downs or other non-cash impairments of assets, or restructuring charges or severance costs associated with acquisitions or dispositions will be excluded.
- "Consolidated Net Tangible Assets" as of any date of determination, means the consolidated total assets of the Company and the Restricted Subsidiaries determined in accordance with GAAP, less the sum of:
 - (1) all current liabilities (excluding the amount of those which are by their terms extendable or renewable at the option of the obligor to a date more than 12 months after the date as of which the amount is being determined); and
 - (2) all goodwill, trade names, trademarks, patents, organization expense, unamortized debt discount and expense and other similar intangibles properly classified as intangible assets in accordance with GAAP.
 - "Continuing Directors" means, as of any date of determination, any member of the Board of Directors of the Company who:
 - (1) was a member of such Board of Directors on the Issue Date; or
 - (2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.
 - "Controlling Party" has the meaning given to such term in the Intercreditor Agreement.
- "Corporate Trust Office of the Trustee" means the office of the Trustee in the United States at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 60 Wall Street, Trust and Agency Services, 27th Floor, New York, New York 10005, or such other address in the United States as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office in the United States of any successor Trustee (or such other address as a successor Trustee may designate from time to time by notice to the Holders and the Company).
- "Credit Facilities" means one or more debt facilities (including the Revolving Credit Agreement and the Term Loan Agreement), commercial paper facilities, loan agreements, indentures or agreements of the Company or any Restricted Subsidiary with banks, other institutional lenders, commercial finance companies or other lenders or investors providing for revolving credit loans, term loans, bonds, debentures or letters of credit, pursuant to agreements or indentures, in each case, as amended, restated, modified, renewed, refunded, replaced, increased or refinanced (including by means of sales of debt securities to institutional investors)

in whole or in part from time to time (and without limitation as to amount, terms, conditions, covenants and other provisions, including increasing the amount of available borrowings thereunder, changing or replacing agent banks and lenders thereunder or adding, removing or reclassifying Subsidiaries of the Company as borrowers or guarantors thereunder).

- "Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.
- "Default" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.
- "Depository" has the meaning provided in the Appendix.
- "Disqualified Stock" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable (in each case other than in exchange for or conversion into Capital Stock that is not Disqualified Stock), pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Company to repurchase or redeem such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company and the Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock.
- "Dollar Equivalent" means, with respect to any monetary amount in a currency other than U.S. dollars, at any time of determination thereof, the amount of U.S. dollars obtained by converting such other currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with such other currency as published in the "Currency Rates" section of the Financial Times entitled "Currencies, Bonds & Interest Rates" (or, if the Financial Times is no longer published, or if such information is no longer available in the Financial Times, such source as may be selected in good faith by the Company) on the date of such determination. Except as expressly provided otherwise, whenever it is necessary to determine whether the Company or any of its Restricted Subsidiaries has complied with any covenant or other provision in this Indenture or if there has occurred an Event of Default and an amount is expressed in a currency other than U.S. Dollars, such amount will be treated as the Dollar Equivalent determined as of the date such amount is initially determined in such non-dollar currency.
- "Drilling Contract" means any charterparty, pool agreement or drilling contract in respect of any Collateral Vessel or other contract for use of any Collateral Vessel.

- "Earnings" means, with respect to any Collateral Vessel, (i) all freight, hire and passage moneys payable to the Company or any of its Subsidiaries as a consequence of the operation of such Collateral Vessel, including without limitation payments under any Drilling Contract in respect of such Collateral Vessel, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Company or any of its Subsidiaries as a consequence of the operation of such Collateral Vessel; (iii) compensation payable to the Company or any of its Subsidiaries in the event of any requisition of such Collateral Vessel; (iv) remuneration for salvage, towage and other services performed by such Collateral Vessel and payable to the Company or any of its Subsidiaries; (v) demurrage and retention money receivable by the Company or any of its Subsidiaries in relation to such Collateral Vessel; (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings with respect to such Collateral Vessel; (vii) if and whenever such Collateral Vessel is employed on terms whereby any moneys falling within items (i) through (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to such Collateral Vessel; and (viii) other money whatsoever due or to become due to any of the Company or any of its Subsidiaries in relation to such Collateral Vessel.
- "Earnings Account" means, with respect to any Collateral Vessel, an interest bearing account into which all Earnings derived from any Drilling Contract with respect to such Collateral Vessel (other than Earnings payable to a Local Content Subsidiary) and all Event of Loss Proceeds received in respect of an Event of Loss with respect to such Collateral Vessel shall be deposited or forwarded that is subject to an account control agreement, except to the extent prohibited by applicable law.
- "Earnings Assignments" means, collectively, the assignments of Earnings in favor of the Collateral Agent given by the Collateral Grantors respecting all Earnings derived from the Collateral Vessels and its operations, as the same may be amended, restated, supplemented or modified from time to time.
- "Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security or loan that is convertible into, or exchangeable for, Capital Stock).
- "Equity Offering" means a public or private offering of Capital Stock (other than Disqualified Stock) of the Company made for cash on a primary basis by the Company after the Issue Date, other than (1) public offerings with respect to the Company's common stock registered on Form S-8 and (2) issuances to any Subsidiary of the Company.
- "Equity Pledgor" means each of the Company's Subsidiaries that directly owns Equity Interests in a Collateral Vessel-Owning Subsidiary.
 - "Euroclear" means the Euroclear System or any successor securities clearing agency.

- "Event of Loss" means any of the following events:
 - (1) the actual or constructive total loss of any Collateral Vessel or the agreed or compromised total loss of any Collateral Vessel;
 - (2) the destruction of any Collateral Vessel;
- (3) damage to any Collateral Vessel to an extent, determined in good faith by the Company within 90 days after the occurrence of such damage, as shall make repair thereof uneconomical or shall render such Collateral Vessel permanently unfit for normal use (other than obsolescence); or
- (4) the condemnation, confiscation, requisition for title, seizure, forfeiture or other taking of title to or use of any Collateral Vessel that shall not be revoked within six months.

An Event of Loss shall be deemed to have occurred:

- (a) in the event of the destruction or other actual total loss of any Collateral Vessel, on the date of such loss, or if such date is unknown, on the date such Collateral Vessel was last reported:
- (b) in the event of a constructive, agreed or compromised total loss of any Collateral Vessel, on the date of determination of such total loss;
 - (c) in the case of any event referred to in clause (3) above, upon the such date of determination; or
 - (d) in the case of any event referred to in clause (4) above, on the date that is six months after the occurrence of such event.
- "Event of Loss Proceeds" means all cash compensation, damages and other payments (including insurance proceeds) received by the Company or a Subsidiary of the Company, or the Collateral Agent from any Person, including any governmental authority, with respect to or in connection with an Event of Loss.
 - "Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC thereunder.
- "Excluded Property" means the following, whether now owned or at any time hereafter acquired by any Collateral Grantor or in which such Collateral Grantor now has or at any time in the future may acquire any right, title or interest and whether now existing or hereafter coming into existence: (i) all leasehold real property and all fee simple real property; (ii) all Drilling Contracts; (iii) equipment or inventory; (iv) any general intangibles, governmental approvals or other rights arising under any contracts, instruments, permits, licenses or other documents if (but only to the extent that) the grant of a security interest therein would constitute a breach of a valid and enforceable restriction on the granting of a security interest therein or assignment thereof in favor of a third party (other than (A) to the extent that any such restriction or prohibition would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions) or any other applicable law

(including Bankruptcy Law) or principles of equity or (B) to the extent that the other party has consented to the granting of a security interest therein or assignment thereof pursuant to the terms hereof or pursuant to a grant or assignment for security purposes generally); (v) all deposit accounts other than the Earnings Account; (vi) cash and Cash Equivalents securing letters of credit, bank guarantees or similar instruments to the extent any Lien thereon constitutes a Permitted Lien; and (vii) any and all proceeds of any of the Excluded Property to the extent constituting Excluded Property described in clauses (i) through (vi) above (other than proceeds of a Drilling Contract assigned pursuant to an Earnings Assignment).

- "Existing Indebtedness" means Indebtedness of the Company and its Subsidiaries in existence on the Issue Date, other than the notes and the Subsidiary Guarantees (provided that, for purposes of Section 4.09 Indebtedness outstanding on the Issue Date under (i) the Revolving Credit Agreement, (ii) the Term Loan Agreement, (iii) the Senior Secured Credit Facility Agreement and (iv) the Existing PDV Notes will be deemed to be Incurred under clauses (1) or (2) of the definition of Permitted Debt therein, and not clause (3)(b) of such definition).
- "Existing PDV Notes" means the 7.250% Senior Secured Notes due 2017 issued by Pacific Drilling V Limited under the Existing PDV Notes Indenture.
- "Existing PDV Notes Indenture" means the Indenture, dated as of November 28, 2012, among Pacific Drilling V Limited, the Company and each other guarantor from time to time party hereto, as guarantors, and Deutsche Bank Trust Company Americas, as trustee and as collateral agent.
- "Fair Market Value" means the value that would be paid by an informed and willing buyer to an unaffiliated, informed and willing seller in a transaction not involving distress or necessity of either party, as determined in good faith by the an officer of the Company, or, with respects to such values in excess of \$25.0 million, the Board of Directors of the Company (unless otherwise provided in this Indenture).
- "Financial Officer" means, with respect to any Person, the chief executive officer, chief financial officer, chief accounting officer or treasurer of such Person.
- "GAAP" means generally accepted accounting principles set forth in the Accounting Standards Codification of the Financial Accounting Standards Board (or successor codifications, opinions, pronouncements or statements thereto) in the United States, which are in effect from time to time.
 - "Global Note" has the meaning provided in the Appendix.
- "Government Securities" means direct obligations of, or obligations guaranteed by, the United States of America for the payment of which guarantee or obligations the full faith and credit of the United States is pledged.
- "guarantee" means a guarantee other than by endorsement of negotiable instrument for collection in the ordinary course of business, direct or indirect, in any manner, including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement obligations in respect thereof, of all or any part of any Indebtedness.

- "Guarantors" means each Subsidiary of the Company that provides a Subsidiary Guarantee in accordance with the provisions of this Indenture, in each case, together with their respective successors and assigns until the Subsidiary Guarantee of such Person has been released in accordance with the provisions of this Indenture.
 - "Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under:
 - (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements designed to protect the Person or any of its Restricted Subsidiaries entering into the agreement against, or manage exposure to, fluctuations in interest rates, or to otherwise reduce the cost of borrowing of such Person or any of such Restricted Subsidiaries, with respect to Indebtedness incurred;
 - (2) foreign exchange contracts and currency protection agreements designed to protect the Person or any of its Restricted Subsidiaries entering into the agreement against, or manage exposure to, fluctuations in currency exchanges rates;
 - (3) any commodity futures contract, commodity swap, commodity option, commodity forward sale or other similar agreement or arrangement designed to protect against, or manage exposure to, fluctuations in the price of commodities used by that Person or any of its Restricted Subsidiaries at the time; and
 - (4) other agreements or arrangements designed to protect such Person or any of its Restricted Subsidiaries against, or manage exposure to, fluctuations in interest rates, commodity prices or currency exchange rates.
 - "Holder" or "Noteholder" means a Person in whose name a Note is registered.
- "Indebtedness" means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables (or intercompany reimbursement obligations in respect thereof) in the ordinary course of business), whether or not contingent:
 - (1) in respect of borrowed money;
 - (2) evidenced by bonds, notes, debentures or similar instruments;
 - (3) representing reimbursement obligations in respect of letters of credit, bankers' acceptances or other similar instruments, other than such reimbursement obligations that relate to trade payables or other obligations that are not themselves Indebtedness, in each case, that were entered into in the ordinary course of business of such Person to the extent such reimbursement obligations are satisfied within 10 Business Days following payment on the letter of credit, bankers' acceptance or similar instrument;
 - (4) representing Capital Lease Obligations of such Person;

- (5) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed;
 - (6) representing Hedging Obligations of such Person; or
 - (7) representing Attributable Indebtedness of such Person in respect of Sale and Leaseback Transactions,

if and to the extent any of the preceding items (other than letters of credit, Hedging Obligations and Attributable Indebtedness) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the guarantee by the specified Person of any Indebtedness of any other Person.

- "Indenture" means this Indenture, as amended or supplemented from time to time.
- "Indenture Documents" means the Indenture, the Collateral Agreements and any agreement, instrument or other document evidencing or governing any Notes Obligations.
- "Insolvency or Liquidation Proceeding" means: (a) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Collateral Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Collateral Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Collateral Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Collateral Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Collateral Grantor are determined and any payment or distribution is or may be made on account of such claims
 - "Initial Notes" has the meaning provided in the recitals hereto.
 - "Initial Purchasers" has the meaning provided in the Appendix.
- "Insurance Assignments" means, collectively, the assignments of insurance proceeds in favor of the Collateral Agent given by the Collateral Grantors respecting all hull and machinery and loss of hire insurance covering each Collateral Vessel or its operations, as the same may be amended, restated, supplemented or modified from time to time.
- "Intercreditor Agreement" means (i) the Intercreditor Agreement among the Collateral Agent, the Trustee, the Revolving Credit Agent, the Term Loan Agent, the Company, each other Collateral Grantor and the other parties from time to time party thereto, entered into on the Issue Date, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with the Indenture and (ii) any replacement thereof that contains terms not materially less favorable to the holders of the Notes than the Intercreditor Agreement referred to in clause (i).

- "Internal Charterer" means any direct or indirect Subsidiary of the Company (other than a Local Content Subsidiary) that is not the owner of the relevant Collateral Vessel and that is party to any Drilling Contract in respect of a Collateral Vessel and entitled to receive Earnings thereunder.
 - "Investment Grade Rating" means both (i) a rating of "Baa3" or higher by Moody's and (ii) a rating of "BBB-" or higher by S&P.
- "Investments" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business, and excluding extensions of trade credit or other advances to customers on commercially reasonable terms in accordance with normal trade practices or otherwise in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any of the Restricted Subsidiaries sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of Section 4.07. The acquisition by the Company or any of its Subsidiaries of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Subsidiary in such third Person that is not a Subsidiary of such Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 4.07. Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.
- "Involuntary Transfer" means, with respect to any property or asset of the Company or any Restricted Subsidiary, (a) any damage to such property or asset that results in an insurance settlement with respect thereto on the basis of a total loss or a constructive or compromised total loss, (b) the confiscation, condemnation, requisition, appropriation or similar taking of such property or asset by any government or instrumentality or agency thereof, including by deed in lieu of condemnation, or (c) foreclosure or other enforcement of a Lien or the exercise by a holder of a Lien of any rights with respect to it.
 - "Issue Date" means the first date on which Notes are issued under this Indenture.
- "Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a

security interest in such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.

- "Local Content Subsidiary" shall mean any Subsidiary of the Company that is a party to a Drilling Contract or otherwise holds the right to receive Earnings attributable to a Collateral Vessel or any Related Assets for the purpose of satisfying any local content law or regulation or similar law or regulation.
- "Material Subsidiary" means a Subsidiary of a Collateral Vessel-Owning Subsidiary that (i) is a Collateral Vessel-Owning Subsidiary, Equity Pledgor or Internal Charterer, (ii) owns assets with an aggregate fair market value (as determined in good faith by the management of the Company) in excess of \$1,000,000 or (iii) which at such time is actively conducting any business.
 - "Moody's" means Moody's Investors Service, Inc., or any successor to the rating agency business thereof.
- "Mortgage" means each Vessel Mortgage, each other mortgage, deed of trust, deed to secure debt and any other document or instrument under which any Lien on property owned or leased by any Collateral Grantor is granted to secure Pari Passu Obligations under any Pari Passu Document or under which rights or remedies with respect to any such Liens are governed, as the same may be amended, supplemented or modified from time to time.
- "Net Income" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:
 - (1) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with (a) any Asset Sale or other asset dispositions (other than in the ordinary course of business) or (b) the disposition of any securities by such Person or any of the Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of the Restricted Subsidiaries; and
 - (2) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss.
- "Net Proceeds" means the aggregate cash proceeds and Cash Equivalents received by the Company or any Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (1) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, sales commissions, relocation expenses incurred as a result of the Asset Sale, and taxes paid or payable as a result of the Asset Sale after taking into account any available tax credits or deductions and any tax-sharing arrangements, (2) amounts required to be applied to the repayment of Indebtedness secured by a Lien on the properties or assets that were the subject of such Asset Sale, or Indebtedness (other than Indebtedness that is subordinated in right of

payment to the Notes or the Subsidiary Guarantees) which must by its terms, in order to obtain a necessary consent to such Asset Sale or by applicable law, be repaid out of the proceeds from such Asset Sale, and (3) any amounts to be set aside in any reserve established in accordance with GAAP or any amount placed in escrow, in either case for adjustment in respect of the sale price of such properties or assets, for indemnification obligations of the Company or any Restricted Subsidiaries in connection with such Asset Sale or for other liabilities associated with such Asset Sale and retained by the Company or any Restricted Subsidiaries until such time as such reserve is reversed or such escrow arrangement is terminated, in which case Net Proceeds shall include only the amount of the reserve so reversed or the amount returned to the Company or the Restricted Subsidiaries from such escrow arrangement, as the case may be.

- "Non-Recourse Debt" means Indebtedness:
- (1) as to which neither the Company nor any of the Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;
- (2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any of the Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and
- (3) as to which the governing documentation provides that the lenders will not have any recourse to the stock or assets of the Company or any of the Restricted Subsidiaries.

For purposes of determining compliance with <u>Section 4.09</u>, in the event that any Non-Recourse Debt of any of the Unrestricted Subsidiaries ceases to be Non-Recourse Debt of such Unrestricted Subsidiary, such event will be deemed to constitute an incurrence of Indebtedness by a Restricted Subsidiary.

- "Notes" has the meaning provided in the recitals hereto.
- "Notes Custodian" has the meaning provided in the Appendix.
- "Note Documents" means this Indenture, the Notes and each Collateral Agreement, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time.
- "Notes Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Company or any Guarantor arising under this Indenture, the Notes, the Subsidiary Guarantees and the Collateral Agreements (including all principal, premium, interest, penalties, fees, charges, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to

become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Company or any Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

- "Obligations" means any principal, premium, if any, interest (including interest accruing on or after the filing of any petition in bankruptcy or for reorganization, whether or not a claim for post-filing interest is allowed in such proceeding), penalties, fees, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable under the documentation governing any Indebtedness or in respect thereto.
- " Offering Memorandum" means the Offering Memorandum dated May 17, 2013, of the Company relating to the offering of the Initial Notes.
- "Officer" means, with respect to any Person, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, the Controller, the Secretary or any Vice President of such Person.
- "Officers' Certificate" means a certificate signed on behalf of any Person by two Officers, one of whom must be a Financial Officer of such Person.
- "*Opinion of Counsel*" means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 12.03. The counsel may be an employee of, or counsel to, the Company or any Subsidiary of the Company.
- "Other Pari Passu Facility" means each indenture, credit agreement, Credit Facility (other than the Revolving Credit Agreement) or other governing agreement with respect to any Other Pari Passu Obligations, as the same may be amended, restated, supplemented, or otherwise modified from time to time.
- "Other Pari Passu Obligations" means other Indebtedness of the Company or the Collateral Grantors that is equally and ratably secured with the Pari Passu Obligations (subject to the Intercreditor Agreement) as permitted by the Pari Passu Documents and is designated by the Company as an Other Pari Passu Obligation pursuant to the Intercreditor Agreement.
- "Other Pari Passu Secured Parties" means the holders of any Other Pari Passu Obligations and any Authorized Representative with respect thereto.
- "Pari Passu Document" means, collectively, the Revolving Credit Agreement Documents, the Term Loan Documents, the Indenture Documents and any document or instrument evidencing or governing any Other Pari Passu Obligations.
- "Pari Passu Obligations" means (a) the Revolving Credit Agreement Obligations, (b) the Term Loan Obligations, (c) the Notes Obligations, (d) all Other Pari Passu Obligations and (e) all other obligations of the Company and the Guarantors in respect of, or arising under, the Pari Passu Documents, plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Pari Passu Documents, in each case whether

accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.

- "Permitted Business" means a business in which the Company and the Restricted Subsidiaries were engaged on the Issue Date, as described in the Offering Memorandum, and any business reasonably related or complimentary thereto.
- "Permitted Collateral Liens" means Liens described in clauses (1), (5), (7), (8), (9), (10), (12), (13), (14) and (15) of the definition of "Permitted Liens;" provided that, with respect to Liens described in clauses (1) and (10) of the definition of "Permitted Liens," to the extent such Liens encumber Collateral, the aggregate principal amount of Indebtedness (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company or any Restricted Subsidiary thereunder) secured thereby shall not, at any time, exceed the greater of (a) \$2.3 billion and (b) the amount of Indebtedness (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company or any Restricted Subsidiary thereunder) permitted by the Term Loan Agreement to be secured by Liens encumbering the Collateral; provided, further, that if the Term Loan Agreement terminates or otherwise ceases to exist, or the Term Loan Agreement ceases to limit or increases the limit on, the amount of Indebtedness that may be secured by the Collateral, then the limitation set forth in the preceding proviso shall automatically cease to apply or increase, as applicable.
- "Permitted Holders" means Quantum Pacific International Limited, a corporation organized and existing under the laws of the British Virgin Islands, and its Affiliates.
 - "Permitted Investments" means:
 - (1) any Investment in the Company or in any Restricted Subsidiary;
 - (2) any Investment in cash or Cash Equivalents;
 - (3) any Investment by the Company or any Restricted Subsidiary in a Person, if as a result of such Investment:
 - (a) such Person becomes a Restricted Subsidiary; or
 - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary;
 - (4) any Investment made as a result of the receipt of non-cash consideration from (a) an Asset Sale that was made pursuant to and in compliance with Section 4.10 or (b) a disposition of properties or assets that does not constitute an Asset Sale;
 - (5) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

- (6) any Investments received in compromise or resolution of obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any of the Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer and any Investments obtained in exchange for any such Investments;
 - (7) Investments represented by Hedging Obligations permitted by clause (6) of Section 4.09(b);
- (8) any guarantee of Indebtedness or other obligations of the Company or any Restricted Subsidiary permitted to be incurred under this Indenture:
- (9) Investments that are in existence on the Issue Date, and any extension, modification or renewal thereof, but only to the extent not involving additional advances, contributions or other Investments of cash or other assets or other increases thereof (other than as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities, in each case, pursuant to the terms of such Investment as in effect on the Issue Date);
- (10) Investments acquired after the Issue Date as a result of the acquisition by the Company or any Restricted Subsidiary of another Person, including by way of a merger, amalgamation or consolidation, to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;
 - (11) loans or advances referred to in clause (5) of Section 4.11(b);
- (12) Investments in any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business by the Company or any of its Restricted Subsidiaries; and
- (13) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (13) that are at the time outstanding, not to exceed the greater of (x) \$100.0 million and (y) 2.5% of Consolidated Net Tangible Assets.
- "Permitted Jurisdiction" means any of Luxembourg, the Republic of the Marshall Islands, the United States of America, any State of the United States or the District of Columbia, the Commonwealth of the Bahamas, the Republic of Liberia, the Republic of Panama, the Commonwealth of Bermuda, the British Virgin Islands, Gibraltar, the Cayman Islands, the Isle of Man, Cyprus, Norway, Greece, Hong Kong, the United Kingdom, Malta, any Member State of the European Union and any other jurisdiction generally acceptable to institutional lenders in the shipping and offshore drilling industries, as determined in good faith by the Board of Directors of the Company.

"Permitted Liens" means:

- (1) Liens on assets of the Company or any of the Restricted Subsidiaries securing Obligations with respect to Indebtedness Incurred (or deemed Incurred pursuant to the definition of "Existing Indebtedness") pursuant to clauses (1) or (2) of the definition of "Permitted Debt";
- (2) Liens in favor of the Company or any Guarantor or, if granted by any Person other than the Company or any Guarantor, Liens in favor of any other Restricted Subsidiary;
- (3) Liens on property of a Person existing at the time such Person is merged with or into or amalgamated or consolidated with the Company or any Restricted Subsidiary; *provided* that such Liens were in existence prior to such merger, amalgamation or consolidation, were not incurred in contemplation thereof and do not extend to any assets other than those of the Person merged into or amalgamated or consolidated with the Company or any Restricted Subsidiary;
- (4) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Company or any Restricted Subsidiary; *provided* that such Liens were in existence prior to such acquisition, and not incurred in contemplation of, such acquisition;
- (5) Liens to secure the performance of statutory obligations, surety, customs, importation or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business (including Liens on cash or Cash Equivalents to secure letters of credit, bank guarantees and similar instruments issued in support of such obligations); *provided* that, in the case of any such Liens on assets of any Collateral Grantor, such Liens shall extend solely to cash and/or Cash Equivalents of such Collateral Grantor;
 - (6) Liens existing on the Issue Date (other than Liens referred to in clause (1) of this definition);
- (7) Liens for taxes, assessments or governmental charges or claims (i) that are not yet delinquent or (ii) that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor;
- (8) Liens imposed by law, such as suppliers', carriers', warehousemen's, landlords' and mechanics' Liens, in each case, incurred in the ordinary course of business, for amounts (i) not more than 30 days past due or (ii) which are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor;
- (9) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other

similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of the applicable Person;

- (10) Liens on the Collateral securing the Notes (including Additional Notes issued in an aggregate amount not to exceed the Additional Notes Amount) or the Subsidiary Guarantees and any Permitted Refinancing Indebtedness in respect thereof;
- (11) Liens to secure Indebtedness permitted to be Incurred under this Indenture to refinance any Indebtedness secured by Liens permitted to exist pursuant to clauses (3), (4), (6) or this clause (11) of this definition (or Liens that otherwise replace Liens referred to in such clauses); *provided*, *however*, that;
 - (a) the new Lien is limited to all or part of the same property and assets covered by the initial Lien (plus improvements and accessions to such property, or proceeds or distributions thereof) or any related after-acquired property that, pursuant to any after-acquired property clauses in written agreements pursuant to which the original Lien arose, is required to be pledged to secure the original Indebtedness (plus improvements and accessions to such property, or proceeds or distributions thereof); and
 - (b) the Indebtedness or other obligation secured by the new Lien is not increased to any amount greater than the sum of (i) the outstanding principal amount, or, if greater, committed amount, of the original Indebtedness or obligation and (ii) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;
- (12) Liens arising by reason of any judgment, attachment, decree or order of any court or other governmental authority not giving rise to an Event of Default that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor;
- (13) Liens securing cash management obligations owing to a bank and rights of setoff in favor of a bank, imposed by law or granted in the ordinary course of business on deposit accounts maintained with such bank and cash and Cash Equivalents in such accounts;
 - (14) Liens to secure Hedging Obligations entered into in the ordinary course of business and not for speculative purposes;
- (15) Liens incurred in the ordinary course of business of the Company or any Restricted Subsidiary arising from Vessel chartering, drydocking, maintenance, repair, refurbishment, the furnishing of supplies and bunkers to Vessels or masters', officers' or crews' wages and maritime Liens, in the case of each of the foregoing, which were not Incurred or created to secure the payment of Indebtedness;

- (16) Liens arising under a contract over goods, documents of title to goods and related documents and insurances and their proceeds, in each case in respect of documentary credit transactions entered into with customers of the Company and the Restricted Subsidiaries in the ordinary course of business;
- (17) Liens arising under any retention of title or conditional sale arrangement or arrangements having similar effect in respect of goods supplied in the ordinary course of business;
 - (18) Liens representing the interest in title of a lessor;
- (19) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness (so long as such defeasance, discharge or redemption is permitted under Section 4.07) or Liens arising under this Indenture in favor of the Trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be incurred under this Indenture, provided that such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness; and
- (20) Liens securing Indebtedness or other obligations of the Company or any of the Restricted Subsidiaries, the aggregate principal amount of which obligations or Indebtedness do not exceed at any one time outstanding the greater of (x) \$100.0 million and (y) 2.5% of Consolidated Net Tangible Assets determined at the time of incurrence.
- "Permitted Refinancing Indebtedness" means any Indebtedness of the Company or any of the Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, other Indebtedness of the Company or any of the Restricted Subsidiaries (other than intercompany Indebtedness) (the "Refinanced Indebtedness"); provided that:
 - (1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount of the Refinanced Indebtedness (plus all accrued interest on the Refinanced Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);
 - (2) such Permitted Refinancing Indebtedness has a final maturity date that is either no earlier than the final maturity date of the Refinanced Indebtedness, or more than 90 days after the maturity date of the Notes, and has a Weighted Average Life to Maturity that is (a) equal to or greater than the Weighted Average Life to Maturity of the Refinanced Indebtedness or (b) more than 90 days after the final maturity date of the Notes;
 - (3) if the Refinanced Indebtedness is (a) subordinated in right of payment to the Notes or a Subsidiary Guarantee, then such Permitted Refinancing Indebtedness is subordinated in right of payment to the Notes or such Subsidiary Guarantee, as the case may be, or (b) *pari passu* in right of payment to the Notes or a Subsidiary Guarantee, then such Permitted Refinancing Indebtedness is subordinated or *pari passu* in right of

payment to the Notes or such Subsidiary Guarantee, as the case may be, in the case of each of (a) and (b), on terms at least as favorable to the Holders as those contained in the documentation governing the Refinanced Indebtedness; and

- (4) if the Company or a Guarantor is the issuer of, or otherwise an obligor in respect of the Refinanced Indebtedness, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Company or a Guarantor.
- "Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.
- "Pledge Agreement" means each pledge agreement, share charge or similar instrument pursuant to which such Person grants to the Collateral Agent a Lien in Equity Interests in a Collateral Vessel-Owning Subsidiary directly owned by such grantor, in each case, as amended, restated, supplemented or otherwise modified from time to time.
- "Preferred Stock," as applied to the Capital Stock of any Person, means Capital Stock of such Person of any class or classes (however designated) that ranks prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of such Person, to shares of Capital Stock of any other class of such Person.
 - "Purchase Agreement" has the meaning provided in the Appendix.
 - "QIB" means a "qualified institutional buyer" as defined in Rule 144A under the Securities Act.
- "Qualified Services Contract" means, with respect to any Additional Vessel acquired by, or committed to be delivered to, the Company or any of its Restricted Subsidiaries, a bona fide contract or series of contracts, together with any amendments, supplements or modifications thereto, that the Board of Directors of the Company, acting in good faith, designates as a "Qualified Services Contract" pursuant to a resolution of the Board of Directors of the Company, which contract or contracts:
 - (1) are between the Company or one of its Restricted Subsidiaries, on the one hand, and a Person that is not an Affiliate of the Company and (a) such Person (or a parent of such Person) has a rating of either BBB- or higher from S&P or Baa3 or higher from Moody's, or if such ratings are not available, then a similar investment grade rating from another nationally recognized statistical rating agency, (b) such contract is supported by letters of credit, performance bonds or guarantees from a Person or its parent that has an investment grade rating as described in the preceding subclause (a) of this clause (1), or (c) such contract provides for a lockbox or similar arrangements or direct payment to the Company or its Restricted Subsidiary, as the case may be, by a Person with (or a Person whose parent has) such an investment grade rating, for the full amount of the contracted payments due over the four-quarter reference period considered in calculating Consolidated Cash Flow;

- (2) provide for services to be performed by the Company or one or more of its Restricted Subsidiaries involving the use of such Additional Vessel by the Company or one or more of its Restricted Subsidiaries, in either case for a minimum aggregate period of at least 1 year;
 - (3) provide for a fixed or minimum dayrate or fixed rate for such Additional Vessel covering all the period in clause (2) above; and
- (4) for purposes of <u>Section 4.09</u>, provide that revenues from such Qualified Services Contract are to be received by the Company or any of the Restricted Subsidiaries within 1 year of (a) delivery of the related Additional Vessel and (b) the Incurrence of any Indebtedness pursuant to such clause.
- "Ready for Sea Cost" means, with respect to a Vessel to be acquired by the Company or any Restricted Subsidiary, the aggregate amount of all expenditures Incurred to acquire or construct and bring such Vessel to the condition and location necessary for its intended use, including any and all inspections, appraisals, repairs, modifications, additions, permits and licenses in connection with such acquisition or lease.
 - "Regulation S" has the meaning provided in the Appendix.
- "Related Assets" means, with respect to any Collateral Vessel, (i) proceeds of any insurance policies and contracts from time to time in force with respect to such Collateral Vessel, (ii) any requisition compensation payable in respect of any compulsory acquisition of such Collateral Vessel, (iii) any Earnings derived from the use or operation of such Collateral Vessel (other than Earnings payable to a Local Content Subsidiary) and/or any account to which such Earnings are deposited, (iv) any charters, operating leases, Vessel purchase options and related agreements with respect to such Collateral Vessel entered into, and any security or guarantee in respect of the charterer's or lessee's obligations under such charter, lease, Vessel purchase option or agreement and (v) any security interest in, or agreement or assignment relating to, any of the foregoing or any mortgage in respect of such Collateral Vessel; provided that Related Assets will not include any Excluded Property.
- "Relevant Business Day" means, when used in connection with the creation of a Lien on any asset, any Business Day that is not a day on which banking institutions in any jurisdiction the laws of which are relevant to the creation of such Lien are authorized or required by law to close.
- "Responsible Officer," when used with respect to the Trustee, means any officer within the corporate trust department of the Trustee having direct responsibility for the administration of this Indenture.
 - "Restricted Global Note" has the meaning provided in the Appendix.
 - "Restricted Investment" means an Investment other than a Permitted Investment.
 - "Restricted Notes Legend" means the legend set forth in Section 2.3(b)(i) of the Appendix.

- "Restricted Subsidiary" means any Subsidiary of the Company that is not then an Unrestricted Subsidiary; provided, however, that (i) upon the occurrence of an Unrestricted Subsidiary ceasing to be an Unrestricted Subsidiary, such Subsidiary shall be a Restricted Subsidiary and (ii) notwithstanding anything to the contrary in this Indenture, each Collateral Grantor shall at all times be a Restricted Subsidiary.
- "Revolving Credit Agent" means Citibank, N.A. (or other agent designated in the Revolving Credit Agreement), together with its successors and permitted assigns in such capacity.
- "Revolving Credit Agreement" means that certain Credit Agreement dated as of the Issue Date, among the Company, the lenders from time to time party thereto and the Revolving Credit Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time, including to increase the amount permitted to be borrowed thereunder or to add or change agents or lenders.
- "Revolving Credit Agreement Documents" means the Revolving Credit Agreement, the Collateral Agreements and any other Credit Documents (as defined in the Revolving Credit Agreement).
- "Revolving Credit Agreement Obligations" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed \$600,000,000 (excluding from such cap any increases in the amount of Obligations resulting from fluctuations in exchange rates, it being understood that the principal amount of Revolving Credit Agreement Obligations may exceed \$600,000,000 as a result of the issuance of letters of credit in foreign currencies, and that such incremental amount shall constitute Revolving Credit Agreement Obligations), plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Other Obligations (as defined in the Credit Agreement).
- "Revolving Credit Agreement Secured Parties" means, collectively, the other Lender Creditors (as defined in the Revolving Credit Agreement), the Revolving Credit Agent and, subject to the Intercreditor Agreement, the Other Creditors (as defined in the Revolving Credit Agreement).
 - "Rule 144A" has the meaning provided in the Appendix.
 - "S&P" means Standard & Poor's Rating Services, or any successor to the rating agency business thereof.
- "Sale and Lease-Back Transaction" means an arrangement relating to property now owned or hereafter acquired whereby the Company or a Restricted Subsidiary transfers such property to a Person and leases it from such Person.

- "Secured Parties" means (a) the Collateral Agent, (b) the Trustee and the Holders of the Notes, (c) the Term Loan Secured Parties, (d) the Revolving Credit Agreement Secured Parties and (e) the holders of Other Pari Passu Obligations.
- "Security Agreement" means, collectively, each security agreement or similar instrument executed by a Collateral Grantor pursuant to which such Person grants to the Collateral Agent a Lien on the assets owned by such Person, in each case, as amended, amended and restated, or supplemented from time to time in accordance with its terms.
- "Series" means each of (i) the Term Loan Obligations, (ii) the Notes Obligations, (iii) the Revolving Credit Agreement Obligations and (iv) the Other Pari Passu Obligations incurred pursuant to any Other Pari Passu Agreement, which pursuant to any joinder agreement, are to be represented hereunder by a common Authorized Representative (in its capacity as such for such Other Pari Passu Obligations).
 - "SEC" means the U.S. Securities and Exchange Commission.
- "Senior Secured Credit Facility Agreement" means the Senior Secured Credit Facility Agreement, dated as of February 19, 2013, among Pacific Sharav S.à.r.l. and Pacific Drilling VII Limited, as Borrowers, the Company, as Guarantor, and the arrangers, lenders and agents named therein, including any related notes, guarantees, collateral documents, mortgages, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified, renewed, refunded, replaced in any manner (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors and including with additional or different lenders) in whole or in part from time to time.
- "Significant Subsidiary" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the U.S. Securities Act, as such Regulation is in effect on the Issue Date, provided, however, that notwithstanding anything to the contrary in this Indenture, each Collateral Vessel-Owning Subsidiary shall be a Significant Subsidiary at all times.
- "Stated Maturity" means, with respect to any installment of interest or principal on any item or series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Issue Date or, if such item or series is Incurred after the Issue Date, the date such item or series is Incurred.
 - "Subsidiary" means, with respect to any specified Person:
 - (1) any corporation, limited liability company, association or other business entity (other than a partnership) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, limited liability company, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and
 - (2) any partnership of which (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof), whether in the form of general, special or limited partnership interests or otherwise, or (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

- "Subsidiary Guarantee" means the guarantee by a Guarantor of the Company's Obligations under this Indenture and the Notes, granted pursuant to the provisions of this Indenture.
 - "Term Loan Agent" means the administrative agent under the Term Loan Agreement, which shall initially be Citibank, N.A.
- "Term Loan Agreement" means that certain Term Loan Agreement dated as of the Issue Date, among the Company, the guarantors party thereto, the lenders from time to time party thereto, and the Term Loan Agent, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time, including to increase the amount permitted to be borrowed thereunder or to add or change agents or lenders.
- "Term Loan Documents" means the Term Loan Agreement, the Collateral Agreements and any agreement, instrument or other document evidencing or governing any Term Loan Obligations.
- "Term Loan Obligations" means the "Obligations" (as defined in the Term Loan Agreement) of the Company and the Guarantors under the Term Loan Agreement and any other related document or instrument executed and delivered pursuant to thereto.
- "Term Loan Secured Parties" means, collectively, the lenders from time to time party to the Term Loan Agreement and the Term Loan Agent.
- "Treasury Rate" means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (or, if such statistical release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption date to June 1, 2016; provided, however, that if the period from the redemption date to June 1, 2016 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.
- "*Trustee*" means Deutsche Bank Trust Company Americas, a New York banking corporation, in its capacity as trustee under this Indenture, until a successor replaces it in accordance with the applicable provisions of this Indenture, and thereafter "Trustee" means each Person who is then a Trustee thereunder.

- "Uniform Commercial Code" means the Uniform Commercial Code as in effect in any applicable jurisdiction from time to time.
- "Unrestricted Subsidiary" means:
- (1) any Subsidiary of the Company which at the time of determination is an Unrestricted Subsidiary (as designated by the Company, as provided below); and
 - (2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (other than a Collateral Grantor) as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors unless such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on, any property of, the Company or any Restricted Subsidiary (other than solely any Subsidiary of the Subsidiary to be so designated); *provided* that the Subsidiary to be so designated and each Subsidiary of such Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) except as permitted by Section 4.11, is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;
- (3) is a Person with respect to which neither the Company nor any of the Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;
- (4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of the Restricted Subsidiaries; and
- (5) is neither the owner of any interests in any Collateral Vessel nor (except for a Local Content Subsidiary) a party to a Drilling Contract.
- "U.S. Securities Act" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC thereunder.
- "Vessel" means any drilling rig, drillship or other drilling vessel, whose primary purpose is the exploration and production drilling for crude oil or hydrocarbons, in each case together with all related spares, equipment and any additions or improvements thereto.
- "Vessel Mortgage" means each first preferred mortgage and any other instruments, such as statutory mortgages and deeds, over any Collateral Vessel, each duly registered in the Liberian ship registry (or other relevant registry) in favor of the Collateral Agent, as the same may be amended, restated, supplemented or otherwise modified from time to time.

- "Vessel Value" means, with respect to each Vessel, the aggregate contract price for the acquisition or construction of such Vessel (or the acquisition of the Capital Stock of any Person owning such Vessel), as applicable, plus any Ready for Sea Cost with respect to such Vessel.
- "Voting Stock" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.
 - "Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:
 - (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of such Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by
 - (2) the then outstanding principal amount of such Indebtedness.

Section 1.02 <u>Other Definitions</u>.

<u>Term</u>	Defined in Section
"Act"	9.07
"Additional Amounts"	4.22
"Affiliate Transaction"	4.11
"Appendix"	2.01
"Asset Sale Offer"	4.10
"Asset Sale Offer Amount"	3.09
"Asset Sale Offer Period"	3.09
"Asset Sale Offer Settlement Date"	3.09
"Asset Sale Offer Termination Date"	3.09
"Change of Control Offer"	4.15
"Change of Control Payment"	4.15
"Change of Control Payment Date"	4.15
"Covenant Defeasance"	8.03
"Discharge"	8.08
"Event of Default"	6.01
"Excess Proceeds"	4.10
"Incur"	4.09
"Indemnified Taxes"	4.22
"Insurances"	4.25
"Insurers"	4.25
"Intercompany Transfers"	4.08
"Legal Defeasance"	8.02
"Luxembourg Guarantor"	10.07

Term_	Defined in Section
"Owners Insurance Broker"	4.25
"Paying Agent"	2.03
"Payment Default"	6.01
"Permitted Debt"	4.09
"Register"	2.03
"Registrar"	2.03
"Restricted Payments"	4.07
"Reversion Date"	4.23
"Specified Tax Jurisdiction"	4.22
"Successor Guarantor"	5.01
"Successor Company"	5.01
"Suspended Covenants"	4.23
"Suspension Date"	4.23
"Suspension Period"	4.23
"Taxes"	4.22

Section 1.03 <u>Rules of Construction</u>.

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) the meanings of the words "will" and "shall" are the same when used to express an obligation;
- (6) references to sections of or rules under the Securities Act or the Exchange Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;
- (7) "herein," "hereof" and other words of similar import refer to this Indenture as a whole (as amended or supplemented from time to time) and not to any particular Article, Section or other subdivision of this Indenture
 - (8) "including" means "including, without limitation"; and
- (9) references herein to Articles, Sections and Exhibits are to be construed as references to articles of sections of, and exhibits to, this Indenture, unless the context otherwise requires.

ARTICLE 2 THE NOTES

Section 2.01 Form and Dating.

Provisions relating to the Notes are set forth in the Rule 144A/Regulation S Appendix attached hereto (the "Appendix"), which is hereby incorporated in and expressly made part of this Indenture. The Notes and the Trustee's certificate of authentication therefor shall be substantially in the form of Exhibit 1 to the Appendix, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have other notations, legends or endorsements required by law, stock exchange rule or usage. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in the Appendix are part of the terms of this Indenture. The Notes shall be in minimum denominations of \$50,000 and integral multiples of \$1,000 in excess thereof.

The terms and provisions contained in the Appendix and the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any such provision conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

Section 2.02 Execution and Authentication.

At least one Officer of the Company shall sign the Notes on behalf of the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized signatory of the Trustee manually signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

On the Issue Date, the Trustee shall authenticate and deliver Notes in an aggregate principal amount of \$750,000,000 and, at any time and from time to time thereafter, the Trustee shall authenticate and deliver Notes for original issue in an aggregate principal amount specified in an authentication order of the Company. Such order shall specify the aggregate principal amount of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated and to whom the Notes shall be registered and delivered and, in the case of an issuance of Additional Notes pursuant to Section 2.14 after the Issue Date, shall certify that such issuance is in compliance with Section 4.09.

The Trustee may appoint an authenticating agent reasonably acceptable to the Company to authenticate the Notes. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

Section 2.03 Registrar and Paying Agent.

The Company shall at all times maintain an office or agency in the United States where Notes may be presented for registration of transfer or for exchange (the "Registrar") and an office or agency in New York, New York where Notes may be presented for payment (the "Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange (the "Register"). The Company may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar, and the term "Paying Agent" includes any additional paying agent.

The Company shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture, which shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee in writing of the name and address of any such agent. If the Company fails to maintain a Registrar or Paying Agent, the Trustee shall act as such. Other than for purposes of effecting a redemption or an offer to purchase described in Sections 3.07, 3.08, 3.09, 4.10 and 4.15 or in connection with Legal Defeasance, Covenant Defeasance or Discharge, the Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints the Trustee as Registrar and Paying Agent in connection with the Notes at the Corporate Trust Office of the Trustee.

Section 2.04 Paying Agent to Hold Money in Trust.

Prior to 11:00 a.m. New York City time, on each date on which any principal, premium, if any, or interest on any Note is due and payable, the Company shall deposit with the Paying Agent a sum sufficient to pay such principal, premium, if any, and interest when so becoming due. The Company shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by the Paying Agent for the payment of principal of, or premium, if any, interest, if any, or Additional Amounts, if any, on, the Notes and shall notify the Trustee of any default by the Company in making any such payment. If the Company or any of its Subsidiaries acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund for the benefit of the Holders. The Company at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee, and the Trustee may at any time during the continuance of any Event of Default under Section 6.01(a) or (b), upon written request to a Paying Agent, require such Paying Agent to forthwith pay to the Trustee all sums so held in trust by such Paying Agent and, in each case, to account for any funds disbursed by such Paying Agent. Upon complying with this Section, the Paying Agent (if other than the Company or any of its Subsidiaries) shall have no further liability for the money delivered to the Trustee. Upon any bankruptcy, reorganization or similar proceeding with respect to the Company, the Trustee shall serve as Paying Agent for the Notes.

Section 2.05 <u>Noteholder Lists</u>.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Noteholders. If the Trustee is not the

Registrar, the Company shall furnish to the Trustee in writing, at least five Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Noteholders.

Section 2.06 Transfer and Exchange.

The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer and in compliance with the Appendix. When a Note is presented to the Registrar or a co-registrar with a request to register a transfer, the Registrar shall register the transfer as requested if the requirements of this Indenture. When Notes are presented to the Registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall make the exchange as requested if the same requirements are met. The Company may require payment of a sum sufficient to cover any taxes, assessments or other governmental charges in connection with any transfer or exchange pursuant to this Section (other than any such transfer taxes, assessments or similar governmental charge payable upon exchange or transfer pursuant to Section 3.06, 4.10, 4.15 or 9.05).

Section 2.07 Replacement Notes.

If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Company shall issue and the Trustee shall, upon its receipt of an authentication order from the Company, authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met and the Holder satisfies any other reasonable requirements of the Trustee. If required by the Registrar or the Company, such Holder shall furnish an indemnity bond sufficient in the judgment of the Registrar, the Trustee and the Company to protect the Company, the Trustee, the Paying Agent and the Registrar from any loss which any of them may suffer if a Note is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Note.

Every replacement Note is an additional obligation of the Company.

Section 2.08 Outstanding Notes.

The Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section as not outstanding. Except as set forth in <u>Section 2.09</u>, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note.

If the Paying Agent (other than the Company or a Subsidiary thereof) holds in trust, in accordance with this Indenture, by 11:00 a.m. New York City time, on a redemption date or other maturity date money sufficient to pay all principal, interest, premium, if any, and Additional Amounts, if any, payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, then on and after that date such Notes (or portions thereof) shall cease to be outstanding and interest on them shall cease to accrue.

Section 2.09 <u>Treasury Notes</u>.

In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Company or any Guarantor, or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Guarantor, will be considered as though not outstanding, except that for the purposes of determining whether the Trustee will be protected in relying on any such direction, waiver or consent, only Notes that the Trustee actually knows are so owned will be so disregarded.

Section 2.10 <u>Temporary Notes</u>.

Until definitive Notes are ready for delivery, the Company may prepare and the Trustee shall, upon its receipt of an authentication order from the Company, authenticate temporary Notes. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Company considers appropriate for temporary Notes. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Notes and deliver them in exchange for temporary Notes. Holders of temporary Notes shall be entitled to all of the benefits under this Indenture.

Section 2.11 <u>Cancellation</u>.

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange, replacement or payment. The Trustee and no one else shall cancel and destroy (subject to the record retention requirements of the Exchange Act) all Notes surrendered for registration of transfer, exchange, replacement, payment or cancellation. Upon written request, the Trustee will deliver a certificate of such cancellation to the Company unless the Company directs the Trustee to deliver canceled Notes to the Company instead. The Company may not issue new Notes to replace Notes it has redeemed, paid or delivered to the Trustee for cancellation.

Section 2.12 Defaulted Interest.

If the Company defaults in a payment of interest on the Notes, the Company shall pay defaulted interest at the rate specified in the second paragraph of Section 4.01 (plus interest on such defaulted interest to the extent lawful) in any lawful manner. The Company may pay the defaulted interest to the Persons who are Noteholders on a subsequent special record date. The Company shall fix or cause to be fixed any such special record date and payment date (which special record date shall not be less than 10 days prior to the related payment date) to the reasonable satisfaction of the Trustee and shall promptly mail to each Noteholder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

Section 2.13 CUSIP and ISIN Numbers.

The Company in issuing the Notes may use "CUSIP" numbers and corresponding "ISINs" (if then generally in use) and, if so, the Trustee shall use "CUSIP" numbers and corresponding "ISINs" in notices of redemption as a convenience to Holders; *provided*, *however*,

that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee of any changes in "CUSIP" or "ISIN" numbers.

Section 2.14 Issuance of Additional Notes.

The Company shall be entitled, subject to its compliance with Section 4.09, to issue Additional Notes under this Indenture in an aggregate amount not exceeding the Additional Notes Amount, which Additional Notes shall have identical terms and conditions as the Initial Notes issued on the Issue Date, other than with respect to the date of issuance, issue price and the date from which interest will accrue. The Initial Notes issued on the Issue Date, and any Additional Notes, will be equally and ratably secured by the Liens granted to the Collateral Agent on the Collateral and shall be treated as a single class for all purposes under this Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase.

With respect to any Additional Notes, the Company shall set forth in an Officers' Certificate, which shall be delivered to the Trustee, the following information:

- (1) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture and the provision of Section 4.09 that the Company is relying on to issue such Additional Notes; and
- (2) the issue price, the issue date (and the corresponding date from which interest shall accrue thereon and the first interest payment date therefor) and the CUSIP number and any corresponding ISIN of such Additional Notes.

ARTICLE 3 REDEMPTION AND PREPAYMENT

Section 3.01 Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 or is required to redeem Notes pursuant to Section 3.08, it shall furnish to the Trustee, at least five Business Days (unless a shorter period shall be agreeable to the Trustee) before the date of giving notice of the redemption pursuant to Section 3.03, an Officers' Certificate setting forth (i) either the clause of Section 3.07 pursuant to which the redemption shall occur or that such redemption shall occur pursuant to Section 3.08, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed, (iv) the redemption price or the method by which it will be determined, and (v) whether the Company requests that the Trustee give notice of such redemption.

Section 3.02 <u>Selection of Notes to Be Redeemed</u>.

If less than all of the Notes are to be redeemed at any time, the Trustee will select the Notes to be redeemed on a *pro rata* basis, by lot to the extent practicable or, in the case of Global Notes, by such other method in accordance with the applicable procedures of the Depositary,

unless otherwise required by law or applicable stock exchange or Depositary requirements, from the outstanding Notes not previously called for redemption. In the event of partial redemption other than on a *pro rata* basis, the particular Notes to be redeemed shall be selected, not less than five Business Days (unless a shorter period shall be agreeable to the Trustee) prior to the giving of notice of the redemption pursuant to Section 3.03, by the Trustee from the outstanding Notes not previously called for redemption.

The Trustee shall promptly notify the Company in writing of the Notes selected for redemption and, in the case of any Note selected for partial redemption, the principal amount thereof to be redeemed. No Notes of \$50,000 or less can be redeemed in part. Notes and portions of Notes selected shall be in amounts of \$50,000 or whole multiples of \$1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder shall be redeemed. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption.

Section 3.03 Notice of Redemption.

Except as otherwise provided in <u>Section 3.08</u> in relation to a mandatory redemption, at least 30 days but not more than 60 days before a redemption date (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a Legal Defeasance, Covenant Defeasance or Discharge), the Company shall mail or cause to be mailed, by first class mail, or otherwise given in accordance with the procedures of the Depository, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address (with a copy to the Trustee). Except with respect to redemption pursuant to <u>Section 3.08</u>, notices of redemption may be subject to one or more conditions specified in the notice of redemption.

The notice shall identify the Notes to be redeemed and shall state:

- (a) the redemption date;
- (b) the redemption price or, if the redemption price is not then determinable, the manner in which it is to be determined;
- (c) if any Note is to be redeemed in part only, the portion of the principal amount of such Note that is to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in a principal amount equal to the unredeemed portion of the original Note will be issued in the name of the applicable Holder upon cancellation of the original Note;
 - (d) the name and address of the Paying Agent;
 - (e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (f) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption shall cease to accrue on and after the redemption date and the only remaining right of the Holders of such Notes is to receive payment of the redemption price upon surrender to the Paying Agent of the Notes redeemed;

- (g) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;
- (h) the CUSIP (or ISIN) number, if any, and that no representation is made as to the correctness or accuracy of the CUSIP (or ISIN) number, if any, listed in such notice or printed on the Notes; and
 - (i) a description of any conditions to the Company's obligations to complete the redemption.

If any of the Notes to be redeemed is in the form of a Global Note, then the Company shall modify such notice to the extent necessary to accord with the procedures of the Depository applicable to redemption.

At the Company's request, the Trustee shall give the notice of optional redemption in the Company's name and at its expense; *provided*, *however*, that the Company shall have delivered to the Trustee, as provided in <u>Section 3.01</u>, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the second preceding paragraph.

Section 3.04 <u>Effect of Notice of Redemption</u>.

Once notice of redemption is mailed in accordance with Section 3.03, Notes (or portions thereof) called for redemption become irrevocably due and payable on the applicable redemption date at the applicable redemption price, subject to the satisfaction of any conditions to the redemption specified in the notice of redemption. If mailed in the manner provided for in Section 3.03, the notice of redemption shall be conclusively presumed to have been given whether or not a Holder receives such notice. Failure to give timely notice or any defect in the notice shall not affect the validity of the redemption.

Section 3.05 Deposit of Redemption Price.

Prior to 11:00 a.m., New York City time, on any redemption date, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary thereof is acting as Paying Agent, segregate and hold in trust as provided in <u>Section 2.04</u>) money sufficient in same day funds to pay the redemption price of and accrued interest on all Notes to be redeemed on that date. The Paying Agent shall promptly return to the Company any money deposited with the Paying Agent by the Company in excess of the amounts necessary to pay the redemption price of and accrued interest on all Notes to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption date, interest shall cease to accrue on the Notes or the portions of Notes called for redemption whether or not such Notes are presented for payment, and the only remaining right of the Holders of such Notes shall be to receive payment of the redemption price upon surrender to the Paying Agent of the Notes redeemed. If any Note called for redemption shall not be so paid

upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption date until such principal is paid, and to the extent lawful, on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in <u>Section 4.01</u>.

Section 3.06 Notes Redeemed in Part.

Upon surrender of a Note that is redeemed in part, the Company shall issue in the name of the applicable Holder and the Trustee shall, upon its receipt of an authentication order from the Company, authenticate for such Holder at the expense of the Company a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

Section 3.07 Optional Redemption.

- (a) At any time prior to June 1, 2016, the Company may, at its option, redeem up to 35% of the aggregate principal amount of Notes (including any Additional Notes) issued under this Indenture, at one time or from time to time, at a redemption price equal to 105.375% of the principal amount thereof, plus accrued and unpaid interest and Additional Amounts, if any, thereon to the applicable redemption date (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date), in an amount not greater than the net cash proceeds received by the Company from one or more Equity Offerings; *provided* that:
 - (1) at least 65% of the aggregate principal amount of Notes (including any Additional Notes) issued under this Indenture (excluding any Notes held by the Company and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and
 - (2) the redemption occurs within 120 days after the date of the closing of such Equity Offering.
- (b) At any time prior to June 1, 2016, the Company may, at its option, redeem the Notes, in whole or in part, at one time or from time to time, at a redemption price equal to 100% of the principal amount of the Notes redeemed, plus the Applicable Premium as of, and accrued and unpaid interest and Additional Amounts, if any, to, the applicable redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.
- (c) At any time prior to June 1, 2016, not more than once in any 12-month period, the Company may redeem up to \$75.0 million in principal amount of the Notes at a redemption price equal to 103% of the aggregate principal amount thereof, plus accrued and unpaid interest and Additional Amounts, if any, to the redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.
- (d) On or after June 1, 2016, the Company may, at its option, redeem the Notes, in whole or in part, at one time or from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid

interest and Additional Amounts, if any, on the Notes redeemed, to the applicable redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on June 1 of the years indicated below:

YEAR	PERCENTAGE
2016	104.031%
2017	102.688%
2018	101.344%
2019 and thereafter	100.000%

- (e) The Company may redeem the Notes, at its option, at any time in whole but not in part, at a redemption price equal to 100% of the outstanding principal amount of Notes, plus accrued and unpaid interest (if any) to the applicable redemption date, plus all Additional Amounts, if any, then due and which will become due as a result of the redemption or otherwise (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date), in the event that the Company determines in good faith that the Company or any Guarantor has become or would become obligated to pay, on the next date on which any amount would be payable with respect to the Notes or the Subsidiary Guarantees, Additional Amounts, and such obligation cannot be avoided by taking reasonable measures available to the Company or the relevant Guarantor, as applicable (including making payment through a Paying Agent located in another jurisdiction), as a result of:
 - (1) a change in or an amendment to the laws or treaties (including any regulations or rulings promulgated thereunder) of any Specified Tax Jurisdiction affecting taxation, which change or amendment is announced or becomes effective on or after the Issue Date; or
 - (2) any change in or amendment to any official position of a taxing authority in any Specified Tax Jurisdiction regarding the application, administration or interpretation of such laws, treaties, regulations or rulings (including a holding, judgment or order by a court of competent jurisdiction), which change or amendment is announced or becomes effective on or after the Issue Date;

provided, however, that in the case of Additional Amounts required to be paid as a result of the Company or relevant Guarantor conducting business other than in the place of its incorporation or organization, such amendment or change must be announced or become effective on or after the date in which it begins to conduct business giving rise to the relevant withholding or deduction.

Notwithstanding the foregoing, no such notice of redemption may be given earlier than 60 days prior to the earliest date on which the Company or the relevant Guarantor, as applicable, would be obligated to pay Additional Amounts if a payment in respect of the Notes or the Subsidiary Guarantees were then due, and at the time such notice is given, the obligation to pay Additional Amounts must remain in effect. Before the

Company mails or delivers notice of redemption of the Notes as described above, the Company will deliver to the Trustee and Paying Agent (a) an Officers' Certificate stating that the Company is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Company to so redeem have occurred and (b) an opinion of independent legal counsel of recognized standing that the Company or any Guarantor has or will become obligated to pay Additional Amounts as a result of the circumstances referred to in clause (1) or (2) of the preceding paragraph.

The Trustee and Paying Agent will be entitled to conclusively rely upon the Officers' Certificate and opinion of counsel as sufficient evidence of the satisfaction of the conditions precedent described above, in which case they will be conclusive and binding on the holders.

For the avoidance of doubt, the implementation of European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meeting of 26 and 27 November 2000 on the taxation of savings income or any law implementing or complying with or introduced in order to conform to, such directive will not be a change or amendment for such purposes.

(f) Any redemption pursuant to this <u>Section 3.07</u> shall be made pursuant to the provisions of <u>Section 3.01</u> through <u>Section 3.05</u>.

Section 3.08 <u>Mandatory Redemption</u>.

- (a) The Company shall deposit or cause to be deposited all Event of Loss Proceeds in a deposit account controlled by the Collateral Agent within three Business Days of the receipt thereof, with such Event of Loss Proceeds being held as Collateral therein and subject to a Lien under the Collateral Agreements pending application thereof as set forth in clause (b) below. The Company may withdraw such Event of Loss Proceeds from such deposit account to redeem or repay Pari Passu Obligations in compliance with clause (b) below.
- (b) Upon the occurrence or happening of any Event of Loss and the receipt of Event of Loss Proceeds in respect thereof, the Company shall be required (subject to the payment priority in favor of the holders of Revolving Credit Agreement Obligations set forth in the Intercreditor Agreement and the Revolving Credit Agreement) to redeem Notes and other Pari Passu Obligations containing provisions similar to those set forth in the Indenture with respect to a redemption or repayment upon an Event of Loss equal in aggregate principal amount to the Event of Loss Proceeds received in respect of such Event of Loss (rounded to the nearest \$1,000), upon notice as provided in this Section 3.08, at a redemption price equal to 100% of the principal amount thereof, plus accrued and unpaid interest and Additional Amounts, if any, on the Notes redeemed to the applicable redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date. The Company shall deliver the notice of such mandatory redemption to the Holders within 30 days after the receipt of any Event of Loss Proceeds, and such notice shall state, in addition to the

matters specified in clauses (a) through (h) of Section 3.03, that the Notes are being redeemed with Event of Loss Proceeds. If the aggregate principal amount of Notes and other Pari Passu Obligations exceeds the amount of the Event of Loss Proceeds, the Collateral Agent shall select Notes and such other Pari Passu Obligations to be redeemed or repaid on a *pro rata* basis; provided that any such repayment or redemption of other Pari Passu Obligations may be made at such time as is specified in the relevant Pari Passu Document and need not be concurrent with the redemption of the Notes.

(c) Any redemption pursuant to this <u>Section 3.08</u> shall be made pursuant to the provisions of <u>Sections 3.01</u> through $\underline{3.06}$, except to the extent otherwise specified herein.

Section 3.09 Offer to Purchase by Application of Excess Proceeds.

- (a) In the event that, pursuant to <u>Section 4.10</u>, the Company shall be required to commence an Asset Sale Offer, it shall follow the additional procedures specified below.
- (b) Each Asset Sale Offer shall remain open for a period of at least 20 Business Days following its commencement and not more than 30 Business Days, except to the extent that a longer period is required by applicable law (the "Asset Sale Offer Period"). No later than five Business Days after the termination of the Asset Sale Offer Period (the "Asset Sale Offer Settlement Date"), the Company shall apply all Excess Proceeds (the "Asset Sale Offer Amount") to the purchase of the Notes and other Indebtedness of the Company or the applicable Restricted Subsidiary as specified in Section 4.10 or, if less than the Asset Sale Offer Amount has been validly tendered (and not validly withdrawn), all Notes and other Indebtedness of the Company or such Restricted Subsidiary, as applicable, validly tendered (and not validly withdrawn) in response to the Asset Sale Offer.
- (c) Upon the commencement of an Asset Sale Offer, the Company shall send, by first class mail, a notice to each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The Asset Sale Offer shall be made to all Holders. The notice, which shall govern the terms of the Asset Sale Offer, shall state:
 - (i) that the Asset Sale Offer is being made pursuant to this <u>Section 3.09</u> and <u>Section 4.10</u> and the length of time the Asset Sale Offer shall remain open, including the time and date the Asset Sale Offer will terminate (the "Asset Sale Offer Termination Date");
 - (ii) the Offer Amount, the purchase price and the Asset Sale Offer Settlement Date;
 - (iii) that any Note not tendered or accepted for payment shall continue to accrue interest;

- (iv) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest on and after the Asset Sale Offer Settlement Date;
- (v) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender the Note, properly endorsed for transfer, together with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Note completed and such customary documents as the Company may reasonably request, to the Company or a Paying Agent at the address specified in the notice, before the Asset Sale Offer Termination Date;
- (vi) that Holders shall be entitled to withdraw their election if the Company or the Paying Agent, as the case may be, receives, prior to the Asset Sale Offer Termination Date, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing its election to have such Note purchased;
- (vii) that, if the aggregate principal amount of Notes surrendered by Holders or other Indebtedness of the Company or the applicable Restricted Subsidiary surrendered by holders thereof, collectively, exceeds the Asset Sale Offer Amount, the Trustee shall select the Notes to be purchased from the amount allocated therefor on a *pro rata* basis, by lot to the extent practicable or, in the case of Global Notes, by such other method in accordance with the applicable procedures of the Depositary (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$50,000 and integral multiples of \$1,000 in excess thereof will be outstanding after such purchase) and, if applicable, the Company will select such other Indebtedness for purchase or redemption based on amounts tendered or required to be prepaid; and
- (viii) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$50,000 in principal amount or an integral multiple of \$1,000 in excess thereof.

Promptly after the Asset Sale Offer Termination Date, the Company shall, to the extent lawful, accept for payment Notes or portions thereof tendered pursuant to the Asset Sale Offer in the aggregate principal amount required by Section 4.10. Prior to 11:00 a.m., New York City time, on the Asset Sale Offer Settlement Date, the Company, the Depositary or the Paying Agent, as the case may be, shall mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee shall, upon its receipt of an authentication order from the Company, authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on or before the Asset Sale Offer Settlement Date.

Section 3.10 No Mandatory Sinking Fund.

Except as set forth under <u>Sections 3.08</u>, <u>4.10</u> and <u>4.15</u>, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes or to repurchase the Notes at the option of the Holders.

ARTICLE 4 COVENANTS

Section 4.01 Payment of Notes.

The Company shall pay or cause to be paid the principal of, interest, premium, if any, on, the Notes on the dates and in the manner provided in the Notes. Principal, interest and premium, if any, shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 11:00 a.m., New York City time, on the due date money deposited by the Company or a Guarantor in immediately available funds and designated for and sufficient to pay all principal, interest and premium, if any, then due. Subject to Section 4.22, all payments made by the Company under or with respect to the Notes will be made free and clear of and without withholding or deduction for, or on account of, any Taxes, unless the withholding or deduction of such Taxes is then required by law.

The Company shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at a rate equal to the then-applicable interest rate on the Notes; and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest, if any (without regard to any applicable grace period), at the same rate as on overdue principal to the extent lawful.

Section 4.02 Maintenance of Office or Agency.

The Company shall maintain an office or agency (which may be an office of the Trustee, an affiliate of the Trustee, the Registrar or the Paying Agent) in New York, New York where Notes may be presented or surrendered for payment and shall maintain an office or agency in the United States (which may be an office of the Trustee, an affiliate of the Trustee, the Registrar or the Paying Agent) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided*, *however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in New York, New York for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.03.

Section 4.03 Reports.

- (a) Whether or not the Company is then subject to Section 13(a) or 15(d) of the Exchange Act, the Company shall furnish to the Trustee and the Holders, so long as any Notes are outstanding:
 - (1) within 75 days after the end of each of the first three fiscal quarters in each fiscal year, reports on Form 6-K (or any successor form) containing, whether or not required, the Company's unaudited quarterly consolidated financial statements (including a balance sheet and statement of income, changes in stockholders' equity and cash flow) and a Management's Discussion and Analysis of Financial Condition and Results of Operations (the "MD&A") (or equivalent disclosure) for and as of the end of such fiscal quarter (with comparable financial statements for the corresponding fiscal quarter of the immediately preceding fiscal year);
 - (2) within the time period required under the rules of the SEC for the filing of Form 20-F (or any successor form) for each fiscal year, an annual report on Form 20-F (or any successor form) containing the information required to be contained therein (including the Company's audited consolidated financial statements, a report thereon by the Company's certified independent accountants and an MD&A) for such fiscal year; and
 - (3) at or prior to such times as would be required to be filed or furnished to the SEC if the Company was then a "foreign private issuer" subject to Section 13(a) or 15(d) of the Exchange Act (whether or not the Company is then subject to such requirements), all such other reports and information that the Company would have been required to file or furnish pursuant thereto.

All such reports will be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports.

- (b) In addition, the Company shall electronically file or furnish, as the case may be, a copy of all such information and reports referred to in clauses (1) through (3) in paragraph (a) above with the SEC for public availability within the time periods specified therein at any time the Company is then subject to Section 13(a) or 15(d) of the Exchange Act and make such information available to the Holders, and if the Notes are represented by one or more Global Notes, the beneficial owners, of the Notes and prospective investors upon request.
- (c) The Company shall be deemed to have furnished such reports referred to in paragraph (a) above to the Trustee and the Holders if the Company has filed such reports with the SEC via the EDGAR filing system and such reports are publicly available. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company will post the reports referred to in paragraph (a) above on its website within the time periods that would apply to non-accelerated filers if the Company were required to file those reports with the SEC.

- (d) The Company agrees that, for so long as any Notes remain outstanding, it will hold and participate in quarterly conference calls with the Holders and securities analysts relating to the financial condition and results of operations of the Company and the Restricted Subsidiaries.
- (e) In addition, for so long as any Notes remain outstanding and are subject to restrictions on transfer by non-Affiliates under U.S. federal securities laws, the Company will furnish to the Holders and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the U.S. Securities Act.

Delivery of such reports, information and documents to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with the covenants hereunder (as to which the Trustee is entitled to conclusively rely exclusively on an Officers' Certificate).

Section 4.04 <u>Compliance Certificate</u>.

- (a) The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year ending after the Issue Date, an Officers' Certificate stating (i) that a review of the activities of the Company and the Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture and the other Note Documents, and further stating, as to each such Officer signing such certificate, that, to the best of his or her knowledge, the Company has kept, observed, performed and fulfilled each and every covenant contained in this Indenture and the other Note Documents applicable to the Company and is not in default in the performance or observance of any of the terms, provisions and conditions thereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and (ii) either (x) that all action has been taken with respect to the recording, filing, re-recording and refiling of this Indenture and all amendments, supplemental indentures, financing statements, continuation statements and other documents, as are necessary to maintain the perfected Liens created under the Collateral Agreements under applicable law and reciting the details of such action or referring to prior Officers' Certificates in which such details are given or (y) that no such action is necessary to maintain such Liens.
- (b) The Company shall, so long as any of the Notes are outstanding, deliver to the Trustee, within 10 Business Days of any of its Officers becoming aware of any Default or Event of Default, a written statement specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

Section 4.05 <u>Taxes</u>.

The Company shall pay, and shall cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders.

Section 4.06 <u>Stay, Extension and Usury Laws</u>.

Each of the Company and the Guarantors covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and each of the Company and the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 Limitation on Restricted Payments.

- (a) The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly:
- (1) declare or pay any dividend or make any other payment or distribution on account of Equity Interests of the Company or any Restricted Subsidiary (including, without limitation, any payment in connection with any merger, consolidation or amalgamation involving the Company or any of the Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of the Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company and other than dividends or distributions payable to the Company or any other Restricted Subsidiary);
- (2) purchase, repurchase, redeem, retire or otherwise acquire for value (including, without limitation, in connection with any merger, consolidation or amalgamation involving the Company) any Equity Interests of the Company held by any Person (other than any such Equity Interests held by the Company or any Restricted Subsidiary) or any Equity Interests of any Restricted Subsidiary held by an affiliate of the Company (other than Equity Interests held by the Company or any Restricted Subsidiary) (in each case other than in exchange for Equity Interests of the Company that do not constitute Disqualified Stock);
- (3) make any principal payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Subsidiary Guarantee (excluding any intercompany Indebtedness between or among the Company and any of the Restricted Subsidiaries), except the purchase, redemption, defeasance, repurchase or other acquisition of such Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year after the date of purchase, repurchase, redemption, defeasance or acquisition, and the payment of principal of such Indebtedness at the Stated Maturity thereof; or
 - (4) make any Restricted Investment

(all such payments and other actions set forth in these clauses (1) through (4) being collectively referred to as "Restricted Payments"), unless, at the time of and after giving effect to such Restricted Payment:

- (I) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;
- (II) the Company could Incur, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, at least \$1.00 of additional Indebtedness pursuant to the Consolidated Interest Coverage Ratio test set forth in Section 4.09(a); and
- (III) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and the Restricted Subsidiaries since the Issue Date (excluding Restricted Payments permitted by clauses (2) through (10) of <u>Section 4.07</u> (b), is less than the sum, without duplication, of:
 - (A) 50% of the Company's Consolidated Net Income on a consolidated basis for the period (taken as one accounting period) beginning on October 1, 2012 and ending on the last day of the Company's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); *plus*
 - (B) 100% of the aggregate net cash proceeds or the Fair Market Value of assets other than cash, in each case received by the Company or any Restricted Subsidiary from any Person other than the Company or any of its Subsidiaries since the Issue Date as a contribution to its common equity capital or from the issue or sale of the Company's Equity Interests (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Company, in each case that have been converted into or exchanged for Equity Interests (other than Disqualified Stock) of the Company (other than Equity Interests, Disqualified Stock or debt securities sold to a Subsidiary of the Company); plus
 - (C) to the extent that any Restricted Investment that was made after the Issue Date is sold or disposed of for cash or Cash Equivalents or otherwise cancelled, liquidated or repaid for cash or Cash Equivalents, the lesser of (i) the return of capital received in cash or Cash Equivalents with respect to such Restricted Investment (less the cost of disposition, if any) and (ii) the initial amount of such Restricted Investment; *plus*
 - (D) to the extent that any Unrestricted Subsidiary designated as such after the Issue Date is redesignated as a Restricted Subsidiary, the lesser of (i) the Fair Market Value of the Restricted Investment made by the Company or any of the Restricted Subsidiaries in such Subsidiary as of the date of such redesignation and (ii) such Fair Market Value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary after the Issue Date.

- (b) The provisions of Section 4.07(a) will not prohibit:
- (1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of this Indenture;
- (2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Company; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (III)(B) of Section 4.07(a) above;
- (3) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Subsidiary Guarantee with the net cash proceeds from a substantially concurrent Incurrence of Permitted Refinancing Indebtedness;
- (4) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary that is not a wholly owned Subsidiary of the Company to the holders of its Equity Interests on a *pro rata* basis or basis more favorable to the Company or its Restricted Subsidiaries;
- (5) so long as no Event of Default has occurred and is continuing, the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officer, director or employee of the Company or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, employee stock ownership plan or similar trust, shareholders' agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$5.0 million in any calendar year (with any portion of such \$5.0 million amount that is unused in any calendar year to be carried forward to successive calendar years and added to such amount);
- (6) the purchase, redemption or other acquisition or retirement for value of Equity Interests deemed to occur upon the exercise or conversion of stock options, warrants, rights to acquire Equity Interests or other convertible securities, to the extent

such Equity Interests represent a portion of the exercise or conversion price thereof or the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officers, directors or employees of the Company or any of its Restricted Subsidiaries in connection with the exercise or vesting of any equity compensation (including, without limitation, stock options, restricted stock and phantom stock) in order to satisfy any tax withholding obligation with respect to such exercise or vesting;

- (7) any purchase, redemption, defeasance or other acquisition or retirement of any Indebtedness subordinated to the Notes or the Subsidiary Guarantees from proceeds of an Asset Sale or in the event of a Change of Control, in each case only if prior to or simultaneously with such purchase, redemption, defeasance or other acquisition or retirement, the Company or a Restricted Subsidiary has made the Asset Sale Offer or Change of Control Offer, as applicable, as provided in this Indenture and has completed the repurchase or redemption of all Notes validly tendered for payment in connection with such Asset Sale Offer or Change of Control Offer in accordance with the requirements of this Indenture;
- (8) so long as no Event of Default has occurred and is continuing, the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Company or any Preferred Stock of any Restricted Subsidiary of the Company issued on or after the Issue Date in accordance with Section 4.09;
- (9) cash payments in lieu of the issuance of fractional shares, or payments to dissenting stockholders (a) pursuant to applicable law or (b) in connection with the settlement or other satisfaction of legal claims made pursuant to or in connection with a consolidation, merger or transfer of assets in connection with a transaction that is not prohibited by this Indenture; and
- (10) so long as no Event of Default has occurred and is continuing, any other Restricted Payment so long as the amount of such Restricted Payment, together with the aggregate amount of all other Restricted Payments made under this clause (10) since the Issue Date, does not exceed the greater of (x) \$125.0 million and (y) 2.5% of Consolidated Net Tangible Assets as of the date such Restricted Payment is made.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For purposes of determining compliance with this <u>Section 4.07</u>, in the event that a Restricted Payment meets the criteria of more than one of the categories of Restricted Payments described in <u>Section 4.07(a)</u> or the preceding clauses (1) through (10) of this <u>Section 4.07(b)</u> or as a Permitted Investment, the Company will be permitted to divide or classify (or later divide, classify or reclassify in whole or in part in its sole discretion) such Restricted Payment in any manner that complies with this <u>Section 4.07</u>.

Section 4.08 <u>Limitation on Dividend and Other Payment Restrictions Affecting Subsidiaries</u>.

- (a) The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create or permit to become effective any consensual encumbrance or restriction on the ability of any of the Restricted Subsidiaries to:
 - (1) pay dividends or make any other distributions on its Capital Stock to the Company or any of the Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any of the Restricted Subsidiaries; *provided* that the priority that any series of preferred stock of a Restricted Subsidiary has in receiving dividends or liquidating distributions before dividends or liquidating distributions are paid in respect of common stock of such Restricted Subsidiary shall not constitute a restriction on the ability to make dividends or distributions on Capital Stock for purposes of this <u>Section 4.08</u>;
 - (2) make loans or advances to the Company or any of the Restricted Subsidiaries; or
 - (3) sell, lease or transfer any of its properties or assets to the Company or any of the Restricted Subsidiaries
- (all such actions set forth in these clauses (1) through (3) above being collectively referred to as "Intercompany Transfers").
- (b) The restrictions in <u>Section 4.08(a)</u> will not apply to encumbrances or restrictions on the ability of any of the Restricted Subsidiaries to make Intercompany Transfers existing under or by reason of:
 - (1) agreements governing Indebtedness as in effect on the Issue Date, including under the Revolving Credit Agreement, the Term Loan Agreement, the Senior Secured Credit Facility Agreement and the Existing PDV Notes Indenture, in each case as in effect on the Issue Date;
 - (2) restrictions contained in, or in respect of, Hedging Obligations permitted to be Incurred by this Indenture;
 - (3) this Indenture, the Intercreditor Agreement, the Collateral Agreements, the Notes and the Subsidiary Guarantees;
 - (4) applicable law, rule, regulation or order;
 - (5) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of the Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was Incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be Incurred;

- (6) customary non-assignment provisions in contracts and licenses entered into in the ordinary course of business;
- (7) purchase money obligations for property acquired in the ordinary course of business, mortgage financings and Capital Lease Obligations that impose restrictions on the property purchased or mortgaged or leased of the nature described in clause (3) of Section 4.08 (a);
- (8) any agreement for the sale or other disposition of the Capital Stock or all or substantially all of the assets of any Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;
- (9) Liens permitted to be Incurred under the provisions of <u>Section 4.12</u> that limit the right of the debtor to dispose of the assets subject to such Liens;
- (10) provisions limiting the disposition or distribution of assets or property in joint venture agreements, partnership agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable only to the assets that are the subject of such agreements;
- (11) restrictions on cash or other deposits or net worth imposed by customers or suppliers or required by insurance, surety or bonding companies, in each case, under contracts entered into in the ordinary course of business;
- (12) any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1), (3), (5) or (7) of this <u>Section 4.08(b)</u>; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, not materially more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing;
- (13) encumbrances or restrictions of the nature described in clause (3) of <u>Section 4.08(a)</u> with respect to property under a charter, lease or other agreement that has been entered into in the ordinary course for the employment, charter or other hire of such property; and
- (14) instruments governing Indebtedness that is permitted to be Incurred subsequent to the Issue Date pursuant to Section 4.09; provided that, at the time such Indebtedness is Incurred, either (a) such encumbrance or restriction is customary for financings of the same type, and such restrictions would not reasonably be expected to materially impair the Company's ability to make scheduled payments of interest and principal on the Notes when due or any Guarantor's ability to make payment under its Subsidiary Guarantee, as determined in good faith by the Board of Directors of the

Company or a Financial Officer of the Company or (b) restrictions therein are not materially more restrictive, taken as a whole, than those contained in (i) this Indenture, the Notes and the Subsidiary Guarantees or (ii) the Revolving Credit Agreement, the Term Loan Agreement, the Senior Secured Credit Facility Agreement or the Existing PDV Notes Indenture as in effect on the Issue Date, as determined in good faith by the Board of Directors or a Financial Officer of the Company.

Section 4.09 Limitation on Incurrence of Indebtedness and Issuance of Preferred Stock.

- (a) The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "Incur," "Incurrence," "Incurred" and "Incurring" shall have meanings correlative to the foregoing) any Indebtedness (including Acquired Debt) or issue any Disqualified Stock, and the Company will not permit any of the Restricted Subsidiaries to issue any shares of Preferred Stock; provided, however, that the Company or any Restricted Subsidiary may Incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and any Restricted Subsidiary may issue Preferred Stock, if the Consolidated Interest Coverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness, Disqualified Stock or Preferred Stock had been Incurred or issued, as the case may be, at the beginning of such four-quarter period.
- (b) The provisions of <u>Section 4.09(a)</u> will not prohibit the Incurrence of any of the following items of Indebtedness (collectively, " *Permitted Debt*"):
 - (1) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness under one or more Credit Facilities in a maximum aggregate principal amount incurred under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company or such Restricted Subsidiary thereunder) not to exceed \$150.0 million at any one time outstanding;
 - (2) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness under one or more Credit Facilities in a maximum aggregate principal amount incurred under this clause (2) at any one time outstanding (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company or such Restricted Subsidiary thereunder), not to exceed an amount equal to the sum of (i) for each Vessel for which the Company or a Restricted Subsidiary has entered into a contract for the construction or acquisition of such Vessel but which has not yet been delivered or acquired, the greater of (x) \$500.0 million and (y) 75% of the Vessel Value for such Vessel at the time any such Indebtedness is Incurred plus (ii) for each other Vessel owned by the Company or a Restricted Subsidiary, the greater of (x) \$425.0 million and (y) 70% of the Appraised Value for such Vessel at the time any such Indebtedness is Incurred;

- (3) the Incurrence by (i) the Company and any Guarantor of Indebtedness represented by the Notes (including Additional Notes) and the related Subsidiary Guarantees and (ii) the Company or any Restricted Subsidiary of Existing Indebtedness;
- (4) the Incurrence by the Company or any Restricted Subsidiary of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be Incurred under the first paragraph of this covenant or clause (3) of this paragraph or this clause (4);
- (5) the Incurrence by Company or any Restricted Subsidiary of intercompany Indebtedness between or among Company and any of the Restricted Subsidiaries; *provided*, *however*, that:
 - (A) if the Company or any Guarantor is the obligor on such Indebtedness and the payee is not the Company or a Guarantor, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all Obligations with respect to the Notes, in the case of the Company, or the applicable Subsidiary Guarantees, in the case of a Guarantor; and
 - (B) upon any (i) subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary, or (ii) sale or other transfer of any such Indebtedness to a Person that is not the Company or a Restricted Subsidiary, the exception provided by this clause (5) shall no longer be applicable to such Indebtedness and such Indebtedness will be deemed to have been Incurred at the time of any such issuance, sale or transfer;
- (6) the Incurrence by the Company or any Restricted Subsidiary of Hedging Obligations in the ordinary course of business and not for speculative purposes;
- (7) the guarantee by the Company or any Restricted Subsidiary of Indebtedness of the Company or a Restricted Subsidiary that was permitted to be Incurred by another provision of this covenant; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes or a Subsidiary Guarantee, then the guarantee shall be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;
- (8) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness in respect of workers' compensation claims, self-insurance obligations, and performance, customs, importation and surety bonds or other Indebtedness of a like nature, in each case in the ordinary course of business;
- (9) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;

- (10) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness arising from agreements providing for indemnification, earn-outs, adjustment of purchase price or similar obligations, or guarantees or letters of credit, surety bonds or performance bonds securing any obligations of the Company or any Restricted Subsidiary pursuant to such agreements, in each case, Incurred in connection with the acquisition or disposition of any business, assets or the Capital Stock of a Subsidiary, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or the Capital Stock of a Subsidiary for the purpose of financing such acquisition; *provided, however*, that, in the case of a disposition, the maximum aggregate liability in respect of all such Indebtedness shall at no time exceed the gross proceeds (including non-cash proceeds (the Fair Market Value of such non-cash proceeds being measured at the time received and without giving effect to any subsequent changes in value)) actually received by the Company and the Restricted Subsidiaries in connection with such disposition; and
- (11) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness not otherwise permitted pursuant to clauses (1) through (10) above that, together with any other Indebtedness Incurred pursuant to this clause (11) then outstanding, has an aggregate principal amount or accreted value, as applicable, not to exceed the greater of (x) \$100.0 million and (y) 2.5% of Consolidated Net Tangible Assets at such time.

For purposes of determining compliance with this <u>Section 4.09</u>, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (11) above, or is entitled to be Incurred pursuant to <u>Section 4.09(a)</u>, the Company or the applicable Restricted Subsidiary will be permitted to classify such item of Indebtedness (or any portion thereof) on the date of its Incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this <u>Section 4.09</u>. The accrual of interest or Preferred Stock dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of Preferred Stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Preferred Stock or Disqualified Stock in the form of additional shares of the same class of Preferred Stock or Disqualified Stock will not be deemed to be an Incurrence of Indebtedness or an issuance of Preferred Stock or Disqualified Stock for purposes of this covenant; *provided*, in each such case, that the amount of any such accrual, accretion or payment is included in Consolidated Interest Expense of the Company as accrued. Further, the reclassification of any lease or other liability of the Company or any Restricted Subsidiary as Indebtedness due to a change of accounting principles after the Issue Date will not be deemed an incurrence of Indebtedness for purposes of this <u>Section 4.09</u>.

The amount of any Indebtedness outstanding as of any date will be:

(1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;

- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and
- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (A) the Fair Market Value of such assets at the date of determination;
 - (B) the amount of the Indebtedness of the other Person; and
- (4) in the case of Hedging Obligations, the termination value of the agreement or arrangement giving rise to such Hedging Obligations that would be payable by the specified Person at such date.

For purposes of determining compliance with any dollar-denominated restriction on the Incurrence of Indebtedness, the Dollar Equivalent of the principal amount of Indebtedness denominated in another currency will be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of Indebtedness Incurred under a revolving credit facility; *provided* that (1) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than dollars, and such refinancing would cause the applicable dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced and (2) the Dollar Equivalent of the principal amount of any such Indebtedness outstanding on the Issue Date will be calculated based on the relevant currency exchange rate in effect on the Issue Date.

Notwithstanding any other provision of this <u>Section 4.09</u>, the maximum amount of Indebtedness that the Company or the applicable Restricted Subsidiary may Incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

Section 4.10 <u>Limitation on Asset Sales</u>.

- (a) The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, consummate any Asset Sale unless:
 - (1) the Company or the Restricted Subsidiary, as the case may be, receives consideration at the time of consummation of such Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and
 - (2) at least 75% of the consideration received in such Asset Sale by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents; *provided*, *however*, to the extent that any disposition in such Asset Sale was of Collateral, the non-cash consideration received is pledged as Collateral under the Collateral Agreements within 20 Relevant Business Days, in accordance with the requirements set forth in this Indenture;

provided, that the foregoing requirements shall not apply with respect to any Involuntary Transfer.

- (b) For purposes of Section 4.10(a), each of the following will be deemed to be cash:
- (1) any Indebtedness or other liabilities, as shown on the Company's most recent consolidated balance sheet, of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Subsidiary Guarantee) that are assumed, repaid or retired by the transferee of any such assets so long as the Company or such Restricted Subsidiary is released from further liability;
- (2) any securities, notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are, within 180 days after receipt thereof, converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents, to the extent of the cash or Cash Equivalents received in that conversion; and
 - (3) any stock or assets of the kind referred to in clauses (2) or (4) of Section 4.10(c).
- (c) Within 365 days after the receipt of any Net Proceeds from an Asset Sale (including, without limitation, an Involuntary Transfer), the Company or the applicable Restricted Subsidiary, as the case may be, may apply such Net Proceeds at its option to any combination of the following:
 - (1) to purchase, repay or prepay Pari Passu Obligations or other secured Indebtedness of the Company or any Guarantor or, in the case of an Asset Sale other than of Collateral, any Indebtedness (other than Indebtedness that is subordinated in right of payment to the Notes or the Subsidiary Guarantees, whether or not secured (including, without limitation, redemptions or other purchases of Notes)) of the Company or any Restricted Subsidiary (and, to the extent required pursuant to the terms of the Revolving Credit Agreement (as in effect on the Issue Date) in the case of revolving obligations, to correspondingly reduce commitments with respect thereto);
 - (2) to acquire all or substantially all of the assets of, or any Capital Stock of, any Person primarily engaged in a Permitted Business, if, in the case of any such acquisition of Capital Stock, such Person is or becomes a Restricted Subsidiary after giving effect to such acquisition;
 - (3) to make a capital expenditure for the Company or any of its Restricted Subsidiaries; or
 - (4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business (including, without limitation,

Vessels, related assets and any related Ready for Sea Costs) for the Company or any of the Restricted Subsidiaries or make any deposit, installment or progress payment in respect of such assets or payment of any related Ready for Sea Costs,

provided that (x) a binding commitment made within the 365-day period described above by the Company or the applicable Restricted Subsidiary to apply Net Proceeds from an Asset Sale in accordance with clauses (2), (3) and/or (4) above shall satisfy the requirements of such clauses with respect to such Net Proceeds, so long as (i) with respect to any binding commitment to purchase, acquire or construct an Additional Vessel with such Net Proceeds, such Net Proceeds are actually so applied within the later of 365 days from the receipt thereof from such Asset Sale and 365 days from the date any such binding commitment is made, and (ii) with respect to any other binding commitment to apply Net Proceeds pursuant to such clauses, such Net Proceeds are actually so applied within the later of 365 days from the receipt thereof from such Asset Sale and 180 days from the date any such binding commitment is made, and (y) if all or any portion of the assets sold or transferred in such Asset Sale constituted Collateral, in the case of any application of Net Proceeds pursuant to clauses (2) or (4) above, the Company shall, or shall cause the applicable Restricted Subsidiary to, pledge any assets (including, without limitation, any acquired Capital Stock) acquired with such Net Proceeds to secure the Pari Passu Obligations on a first-priority secured basis (subject to the payment priority in favor of the holders of Revolving Credit Agreement Obligations set forth in the Intercreditor Agreement and subject to Permitted Collateral Liens) pursuant to the Collateral Agreements in accordance with this Indenture.

- (d) Pending the final application of any Net Proceeds, the Company or the applicable Restricted Subsidiary may apply the Net Proceeds to temporarily reduce outstanding revolving credit Indebtedness of the Company or any of the Restricted Subsidiaries, respectively, or invest the Net Proceeds in cash and Cash Equivalents.
- (e) Any Net Proceeds from Asset Sales that are not applied or invested as provided in Section 4.10(c) will constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$25.0 million, Company will, within 10 Business Days thereof, make an offer (an "Asset Sale Offer") to all Holders in accordance with Section 3.09 and the Company will, or will cause the applicable Restricted Subsidiary to, make an Asset Sale Offer to all holders of unsubordinated Indebtedness of the Company or such Restricted Subsidiary containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem such Indebtedness with the proceeds of sales of assets to purchase or redeem the maximum principal amount of Notes and such unsubordinated Indebtedness that may be purchased or redeemed out of the Excess Proceeds; provided, that to the extent such Excess Proceeds were received in respect of the sale or transfer of assets that constituted Collateral, an Asset Sale Offer will be made solely to holders of Pari Passu Obligations. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount, plus accrued and unpaid interest and Additional Amounts, if any, to the date of purchase, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company and the Restricted Subsidiaries may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes or other Indebtedness tendered in such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select

the Notes for purchase on a *pro rata* basis, by lot to the extent practicable or by such other method in accordance with the applicable procedures of the Depositary (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of \$50,000 and integral multiples of \$1,000 in excess thereof will be outstanding after such purchase) and, if applicable, the Company will select such other Indebtedness for purchase or redemption based on amounts tendered or required to be prepaid. For the purposes of calculating the principal amount of any such Indebtedness not denominated in U.S. dollars, such Indebtedness shall be calculated by converting any such principal amounts into their Dollar Equivalent determined as of the Business Day immediately prior to the date on which the Asset Sale Offer is announced. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

(f) The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those requirements, laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the Asset Sale provisions of this Indenture, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 4.10 by virtue of such compliance.

Section 4.11 <u>Limitation on Transactions with Affiliates</u>.

- (a) The Company will not, and will not permit any of the Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company and any Restricted Subsidiary (each, an "Affiliate Transaction") involving, with respect to any such transaction or series of related transactions, payments or consideration in excess of \$1.0 million, unless:
 - (1) the Affiliate Transaction is on terms that are either (a) no less favorable to the Company or the relevant Restricted Subsidiary than those that could have been obtained in a comparable arm's-length transaction by the Company or such Restricted Subsidiary with a Person that is not an Affiliate of the Company and any Restricted Subsidiary or (b) if in the good faith judgment of the Company's Board of Directors, no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Company or the relevant Restricted Subsidiary from a financial point of view; and
 - (2) the Company delivers to the Trustee:
 - (A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25.0 million, a resolution of the Board of Directors of the Company set forth in an Officers' Certificate certifying that such Affiliate Transaction or series of related Affiliate Transactions complies with this Section 4.11 and that such Affiliate Transaction or series of related Affiliate Transactions has been approved by a majority of the disinterested members of the Board of Directors of the Company; and
 - (B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50.0 million, an opinion issued to the Board of Directors of the Company by an accounting, appraisal or investment banking firm of international standing or generally recognized in the shipping or offshore drilling industries as qualified to perform the tasks for which such firm has been engaged as to the fairness to the Company or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view or that the terms of such Affiliate Transaction are no less favorable to the Company or the relevant Restricted Subsidiary than those that could have been obtained in a comparable arm's-length transaction by the Company or such Restricted Subsidiary with a Person that is not an Affiliate of the Company and any Restricted Subsidiary.

For the avoidance of doubt, with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration of \$25.0 million or less, the determination that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant may be made by a Financial Officer of the Company.

- (b) The following items will not be deemed to be Affiliate Transactions, as applicable, and, therefore, will not be subject to the provisions of Section 4.11(a):
 - (1) any employment agreement, employee benefit plan, compensation plan or arrangement, officer or director indemnification agreement or any similar arrangement entered into by the Company or any of its Subsidiaries in the ordinary course of business and payments pursuant thereto;
 - (2) payment of reasonable directors' fees to directors of the Company or any Restricted Subsidiary;
 - (3) transactions solely between or among the Company and/or any of its Restricted Subsidiaries;
 - (4) the issuance or sale of Equity Interests (other than Disqualified Stock) of the Company to, or receipt of capital contributions from, Affiliates of the Company;
 - (5) loans or advances to employees of the Company or any Restricted Subsidiary in the ordinary course of business not to exceed \$7.5 million in the aggregate at any one time outstanding;
 - (6) transactions with a Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Company solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;
 - (7) Permitted Investments and Restricted Payments that do not violate the provisions of Section 4.07;

- (8) transactions between the Company or any of its Restricted Subsidiaries and any Person that would not otherwise constitute an Affiliate Transaction except for the fact that one director of such other Person is also a director of the Company or such Restricted Subsidiary, as applicable; provided that such director abstains from voting as a director of the Company or such Restricted Subsidiary, as applicable, on any matter involving such other Person; and
- (9) any agreement as in effect on the Issue Date or any amendments, renewals or extensions of any such agreement (so long as such amendments, renewals or extensions are not less favorable to the Holders).

Section 4.12 Limitation on Liens.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist (i) any Lien of any kind on any Collateral, except pursuant to a Collateral Agreement or the Intercreditor Agreement and except for Permitted Collateral Liens, or (ii) any Lien of any kind securing Indebtedness on any of its property or assets that are not Collateral, except for Permitted Liens.

Section 4.13 Additional Subsidiary Guarantees.

If, after the Issue Date, (a) the Company acquires or creates any Subsidiary that holds any Collateral Vessel or is an Internal Charterer or is otherwise a party to a Drilling Contract with respect to a Collateral Vessel (other than a Local Content Subsidiary), (b) any existing Subsidiary of the Company that is not already a Guarantor holds any Collateral Vessel or becomes party to a Drilling Contract with respect to a Collateral Vessel (other than a Local Content Subsidiary), (c) any Collateral Vessel-Owning Subsidiary acquires or creates any Material Subsidiary or any Subsidiary of any Collateral Vessel-Owning Subsidiary subsequently becomes a Material Subsidiary (in each case, other than an Unrestricted Subsidiary or any such Subsidiary by which a guarantee would be prohibited by applicable law, for so long as such prohibitions are in effect) or (d) any Subsidiary of the Company that is not already a Guarantor guarantees the Revolving Credit Agreement Obligations or the Term Loan Obligations, then the Company will (1) cause such Subsidiary to, within 20 Relevant Business Days of such event, (A) execute and deliver to the Trustee a supplemental indenture substantially in the form of Annex A hereto pursuant to which such Subsidiary will become a Guarantor and (B) execute amendments to the Collateral Agreements pursuant to which it will grant a Lien on any Collateral held by it in favor of the Collateral Agent, for the benefit of the Secured Parties and become a Collateral Grantor thereunder and cause such Liens to be perfected as required thereby, and (2) deliver to the Trustee one or more Officers' Certificates and Opinions of Counsel in connection with the foregoing as specified in this Indenture.

Section 4.14 Existence.

Subject to <u>Article 5</u>, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

Section 4.15 Offer to Repurchase Upon Change of Control.

- (a) If a Change of Control occurs, the Company will make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part (equal to a minimum amount of \$50,000 and integral multiples of \$1,000 in excess thereof) of that Holder's Notes at a purchase price in cash (the "Change of Control Payment") equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest and Additional Amounts, if any, on the Notes repurchased to the date of purchase (the "Change of Control Payment Date"), subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date. No later than 30 days following any Change of Control, the Company will mail a notice to the Trustee and Paying Agent and each Holder describing the transaction or transactions that constitute the Change of Control and stating:
 - (1) that the Change of Control Offer is being made pursuant to this <u>Section 4.15</u> and that all Notes properly tendered and not withdrawn pursuant to the Change of Control Offer will be accepted for payment;
 - (2) the Change of Control Payment and the Change of Control Payment Date, which will be no earlier than 30 days and no later than 60 days from the date such notice is mailed;
 - (3) that any Note not properly tendered will continue to accrue interest;
 - (4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest on and after the Change of Control Payment Date;
 - (5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, properly endorsed for transfer, together with the form entitled "Option of Holder to Elect Purchase" on the reverse of the Notes completed and such customary documents as the Company may reasonably request, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day prior to the Change of Control Payment Date;
 - (6) that Holders will be entitled to withdraw their election if the Paying Agent receives, prior to the close of business on third Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing its election to have the Notes purchased; and
 - (7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$50,000 in principal amount or an integral multiple of \$1,000 in excess thereof.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations to the extent those requirements, laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change

of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this <u>Section 4.15</u>, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this <u>Section 4.15</u> by virtue of such compliance.

- (b) On or before the Change of Control Payment Date, the Company shall, to the extent lawful:
 - (1) accept for payment all Notes or portions thereof properly tendered and not withdrawn pursuant to the Change of Control Offer;
- (2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions Notes properly tendered and not withdrawn; and
- (3) deliver or cause to be delivered to the Trustee and Paying Agent the Notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.
- (c) The Paying Agent shall mail to each Holder of Notes properly tendered and not withdrawn the Change of Control Payment for such Notes (or, if all the Notes are then in global form, make such payment through the facilities of the Depository) and the Trustee will promptly authenticate and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided*, *however*, that each such new Note will be in a principal amount of \$50,000 or an integral multiple of \$1,000 in excess thereof. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.
- (d) Notwithstanding anything to the contrary in this <u>Section 4.15</u>, the Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under such Change of Control Offer, or (2) notice of redemption of all Notes has been given pursuant to <u>Section 3.07</u>, unless there is a default in payment of the applicable redemption price.
- (e) Notwithstanding anything to the contrary contained herein, a Change of Control Offer may be made in advance of a Change of Control, conditioned upon the consummation of such Change of Control, if a definitive agreement is in place for the Change of Control at the time the Change of Control Offer is made.

Section 4.16 <u>Payments for Consent</u>.

The Company will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any cash consideration to or for the benefit of any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture, any Subsidiary Guarantee or the Notes unless such consideration is offered to be paid and is paid to all Holders that consent, waiver or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or amendment.

Section 4.17 Designation of Restricted and Unrestricted Subsidiaries.

- (a) The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if:
- (1) the Company would be permitted to make (i) a Permitted Investment or (ii) an Investment pursuant to <u>Section 4.07</u>, in either case, in an amount equal to the Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in such Subsidiary at the time of such designation;
 - (2) such Restricted Subsidiary meets the definition of an "Unrestricted Subsidiary";
- (3) the designation would not constitute or cause (with or without the passage of time) a Default or Event of Default and no Default and Event of Default would be in existence following such designation; and
- (4) the Company delivers to the Trustee a certified copy of a resolution of the Board of Directors of Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07.

If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and the Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under <u>Section 4.07</u> or under one or more clauses of the definition of Permitted Investments, as determined by the Company.

If, at any time, any Unrestricted Subsidiary designated as such would fail to meet the preceding requirements as an Unrestricted Subsidiary, then such Subsidiary will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be Incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be Incurred as of such date under Section 4.09, the Company or the applicable Restricted Subsidiary will be in default of such covenant.

- (b) The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary if:
- (1) the Company and the Restricted Subsidiaries could Incur the Indebtedness which is deemed to be Incurred upon such designation under <u>Section 4.09</u>, equal to the total Indebtedness of such Subsidiary calculated on a pro forma basis as if such designation had occurred on the first day of the four-quarter reference period;

- (2) the designation would not constitute or cause a Default or Event of Default; and
- (3) the Company delivers to the Trustee a certified copy of a resolution of the Board of Directors of the Company giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions, including the Incurrence of Indebtedness under Section 4.09.

Section 4.18 Business Activities.

The Company will not, and will not permit any of the Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Company and the Restricted Subsidiaries taken as a whole.

Section 4.19 [Reserved]

Section 4.20 Rights to Earnings from the Collateral Vessels.

- (a) The Company will not permit any of its Subsidiaries (other than any Guarantor) to, be or become party to a Drilling Contract in respect of a Collateral Vessel (including as a charterer of a Collateral Vessel) or otherwise hold the right to directly receive any Earnings or any other Related Assets with respect to a Collateral Vessel; provided, that a Local Content Subsidiary may be a party to a Drilling Contract in respect of a Collateral Vessel or otherwise hold the right to receive Earnings or to any Related Assets with respect to a Collateral Vessel to the extent required by any law or regulation of any applicable jurisdiction, so long as such Local Content Subsidiary does not receive more than 20% of the Earnings or Related Assets with respect to such Collateral Vessel. The Company shall, or shall cause one or more of the Guarantors to, at all times maintain the Earnings Accounts, and each Earnings Account shall at all times be in the name of the Company or a Guarantor.
- (b) The Company will at all times cause all such Earnings from the Drilling Contracts in respect of a Collateral Vessel to be deposited into or forwarded to the Earnings Accounts.

Section 4.21 [Reserved]

Section 4.22 Payment of Additional Amounts.

(a) All payments made by or on behalf of the Company or any Guarantor under or with respect to the Notes or the Subsidiary Guarantees will be made free and clear of and without withholding or deduction for, or on account of, any present or future tax, duty, levy, impost, assessment or other governmental charge of whatever nature (including penalties, additions to tax, interest and other liabilities related thereto) (hereinafter " *Taxes*") unless the withholding or deduction of such Taxes is then required by law. If any deduction or withholding for, or on account of, any Taxes imposed or levied by or on behalf of the government of the Luxembourg, Liberia, Nigeria or any political subdivision or any authority or agency therein or thereof having power to tax, or any other jurisdiction in which the Company or any Guarantor (including any successor entity) is organized, incorporated, engaged in business or is otherwise resident or treated as resident for tax purposes, or any jurisdiction from or through which payment is made

(including, without limitation, the jurisdiction of each Paying Agent) (each a "Specified Tax Jurisdiction" and such Taxes, "Indemnified Taxes"), will at any time be required to be made from any payments made under or with respect to the Notes or the Subsidiary Guarantees, the Company, the relevant Guarantor or other payor, as applicable, will pay such additional amounts (the "Additional Amounts") as may be necessary so that the net amount received in respect of such payments by each Holder after such withholding or deduction (including any withholding or deduction from Additional Amounts) will not be less than the amount such holder would have received if such Indemnified Taxes had not been withheld or deducted; provided, however, that Indemnified Taxes do not include:

- (1) any Taxes to the extent such Taxes would not have been so imposed but for the Holder or beneficial owner of the Notes having any present or former connection with the Specified Tax Jurisdiction (other than the mere acquisition, ownership, holding, enforcement, exercise of rights or receipt of payment in respect of the Notes or the Subsidiary Guarantees);
 - (2) any estate, inheritance, gift, sales, excise, transfer, personal property Tax or similar Taxes;
- (3) any Taxes to the extent such Taxes are imposed as a result of the failure of the Holder or beneficial owner of the Notes to complete, execute and deliver to the Company or the relevant Guarantor, as applicable, any form or document that such Holder or beneficial owner is legally entitled to complete, execute, and deliver, that may be required by law or by reason of administration of such law and that is reasonably requested in writing to be delivered to the Company or the relevant Guarantor in order to enable the Company or the relevant Guarantor to make payments on the Notes without deduction or withholding for Taxes, or with deduction or withholding of a lesser amount, which form or document will be delivered within 60 days of a written request therefor by the Company or the relevant Guarantor;
- (4) any Taxes to the extent such Taxes would not have been so imposed but for the beneficiary of the payment having presented a Note for payment (in cases in which presentation is required) more than 30 days after the date on which such payment or such Note became due and payable or the date on which payment thereof is duly provided for, whichever is later (except to the extent that the Holder would have been entitled to Additional Amounts had the Note been presented on the last day of such 30-day period);
- (5) any Taxes imposed on or with respect to any payment by the Company or any Guarantor to the Holder if such holder is a fiduciary or partnership or person other than the sole beneficial owner of such payment, to the extent that a beneficiary or settlor with respect to such fiduciary, a member of such partnership or the beneficial owner of such payment would not have been entitled to Additional Amounts had such beneficiary, settlor, member or beneficial owner been the actual holder of such Note;
- (6) any Taxes to the extent such Taxes are required to be deducted or withheld on a payment pursuant to (a) European Council Directive 2003/48/EC (as amended or

replaced from time to time) or (b) any directive implementing the conclusion of the ECOFIN Council meeting of November 26-27, 2000 on the taxation of savings income, or (c) the bilateral agreements concluded between the European Union member States and several third countries or dependent or associated territories of the European Union pursuant to Article 17.2 of the European Council Directive 2003/48/EC (as amended or replaced from time to time), or (d) any law implementing, or introduced in order to conform to, such directive or (e) the Luxembourg law of 23 December 2005 in the taxation of interest income received by individuals resident in Luxembourg (so called "*Relibi Law*");

- (7) any Taxes to the extent such Taxes are imposed on a Note presented for payment by or on behalf of a Holder or beneficial owner who would have been able to avoid such Tax by presenting the relevant Note to another Paying Agent in a member state of the European Union;
 - (8) any Taxes to the extent such Taxes are payable other than by deduction or withholding at source; or
 - (9) any combination of items (1) through (8) above.
- (b) If the Company or any Guarantor, as applicable, becomes obligated to pay Additional Amounts with respect to any payment under or with respect to the Notes or the Subsidiary Guarantees, the Company or the relevant Guarantor, as applicable, will deliver to the Trustee and Paying Agent at least 30 days prior to the date of that payment (unless the obligation to pay Additional Amounts arises after the 30th day prior to that payment date, in which case the Company or the relevant Guarantor, as applicable, will deliver to the Trustee and Paying Agent promptly thereafter but in no event later than five Business Days prior to the date of payment) an Officers' Certificate stating the fact that Additional Amounts will be payable and the amount so payable. The Officers' Certificate must also set forth any other information necessary to enable the Paying Agent to pay Additional Amounts to Holders on the relevant payment date. The Trustee and Paying Agent will be entitled to rely solely on such Officers' Certificate as conclusive proof as to the amount of such payments and that such payments are necessary. The Company or the relevant Guarantor, as applicable, will provide the Trustee and Paying Agent with documentation reasonably satisfactory to the Trustee and Paying Agent evidencing the payment of Additional Amounts.
- (c) The Company or the relevant Guarantor or applicable withholding agent, as applicable, will make all withholdings and deductions required by law and will remit the full amount deducted or withheld to the relevant governmental authority on a timely basis in accordance with applicable law. As soon as practicable, the Company or the relevant Guarantor or applicable withholding agent, as applicable, will provide the Trustee and Paying Agent with an official receipt or, if official receipts are not obtainable, other documentation reasonably satisfactory to the Trustee and Paying Agent evidencing the payment of the Taxes so withheld or deducted. Upon request, copies of those receipts or other documentation, as the case may be, will be made available by the Trustee and Paying Agent to the Holders.

- (d) Whenever in this Indenture or the Notes there is referenced, in any context, the payment of amounts based upon the principal amount of the Notes or of principal, interest or any other amount payable under, or with respect to, the Notes or the Subsidiary Guarantees, such reference will be deemed to include payment of Additional Amounts as described in this Section 4.22 to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof. For the avoidance of doubt, with respect to Notes represented by a Global Note, a Holder with respect to Additional Amounts and the related provisions of this Indenture shall be deemed to include a Holder representing the interests of a beneficial owner of the Notes or acting on behalf of a beneficial owner of the Notes.
- (e) The Company or the relevant Guarantor, as applicable, will indemnify a Holder within 10 Business Days after written demand therefor, for the full amount of any Indemnified Taxes that were paid by such Holder to a governmental authority of a Specified Tax Jurisdiction and that were imposed on or with respect to any payment made under or with respect to the Notes or the Subsidiary Guarantees (including any Additional Amounts) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant governmental authority. A certificate as to the amount of such payment or liability delivered to the Company or the relevant Guarantor by a Holder will be conclusive absent manifest error.
- (f) The Company or the relevant Guarantor, as applicable, will pay any present or future stamp, issue, registration, value added, court or documentary taxes or any other excise or property taxes, charges or similar levies (including penalties, additional amounts, interest and any other liabilities and reasonable expenses related thereto) that arise in any Specified Tax Jurisdiction from the execution, delivery, enforcement or registration of the Notes, the Subsidiary Guarantees, this Indenture or any other document or instrument in relation thereof, or the receipt of any payments with respect to the Notes or the Subsidiary Guarantees, and the Company or the relevant Guarantor, as applicable, will indemnify the Holders for any such taxes, charges, levies, penalties, amounts, interest, liabilities and expenses paid by such Holders.
- (g) The obligations of the Company and the Guarantors under this Section 4.22 will survive any termination, defeasance or discharge of this Indenture and any transfer by a Holder of its Notes, and will apply *mutatis mutandis* to any jurisdiction in which any successor person to the Company or any Guarantor is organized, incorporated, engaged in business or is otherwise resident or treated as resident for tax purposes or any jurisdiction from or through which payment is made or any political subdivision or authority or agency thereof or therein.

Section 4.23 Suspended Covenants.

From and after the first day (the "Suspension Date") on which (1) the Notes have an Investment Grade Rating and (2) no Default or Event of Default has occurred and is continuing under this Indenture, the Company and its Restricted Subsidiaries will not be subject to the provisions of Sections 4.07, 4.08, 4.09, 4.10 and 4.11 of this Indenture (collectively, the "Suspended Covenants").

If at any date subsequent to the Suspension Date (each such date, a "Reversion Date") Moody's or S&P withdraws its ratings or downgrades the ratings assigned to the Notes so that

the Notes do not have an Investment Grade Rating, or an Event of Default (other than with respect to the Suspended Covenants) occurs and is continuing, then the Company and the Restricted Subsidiaries will, on and after the Reversion Date, be subject to the Suspended Covenants.

The period of time between the Suspension Date and the Reversion Date is referred to herein as the "Suspension Period." During the Suspension Period, the Board of Directors of the Company may not designate any of the Restricted Subsidiaries as Unrestricted Subsidiaries pursuant to Section 4.17. Notwithstanding that the Suspended Covenants may be reinstated, no Default, Event of Default or breach of any kind under this Indenture or the Notes will be deemed to have occurred as a result of a failure of the Company and the Restricted Subsidiaries to comply with a Suspended Covenant during the Suspension Period.

Calculations made on and after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.07 will be made as if Section 4.07 had been in effect at all times since the Issue Date, including during the Suspension Period, except that no Default or Event of Default will be deemed to have occurred solely by reason of a Restricted Payment made while that covenant was suspended. On the Reversion Date, all Indebtedness Incurred during the continuance of the Suspension Period will be classified as having been incurred pursuant to clause (3)(ii) of Section 4.09(b).

The Company will provide the Trustee with prompt written notice upon the commencement of a Suspension Period and of the occurrence of a Reversion Date.

Section 4.24 [Reserved].

Section 4.25 <u>Maintenance of Property; Insurance</u>.

- (a) The Company will, and will cause each of its Restricted Subsidiaries to, (i) keep all material property necessary to the business of the Company and its Restricted Subsidiaries in good working order and condition (ordinary wear and tear and loss or damage by casualty or condemnation excepted) with such exceptions as would not reasonably be expected to have a material adverse effect on the operations, business, properties or financial condition of the Company and its Restricted Subsidiaries, taken as a whole, and (ii) furnish to the Collateral Agent, at the written request of the Collateral Agent, a complete description of the material terms of insurance carried on the Collateral Vessels.
 - (b) The Company will, and will cause each of its Restricted Subsidiaries to:
 - (i) insure and keep each Collateral Vessel insured or cause or procure the Collateral Vessel to be insured and to be kept insured at no expense to the Trustee or the Collateral Agent in regard to (collectively, the "*Insurances*"):
 - (1) hull and machinery (including increased value insurance);
 - (2) war risks (including common conditions and exclusions);

- (3) protection and indemnity risks (including vessel pollution risks);
- (4) Mortgagee's interest risks (including additional perils pollution);
- (5) loss of hire, to the extent reasonably deemed prudent by the Company in light of the cost of obtaining such insurance; and
- (6) such other insurances as a prudent owner of similar vessels of the same age and type would obtain or would legally be required to obtain when operating in the same trade and geographic area as such Collateral Vessel, as well as any insurances required to meet the requirements of the jurisdiction where such Collateral Vessel is employed with named windstorm coverage exclusions while a Collateral Vessel is operating in the Gulf of Mexico;

provided that neither the Company nor any of the Restricted Subsidiaries shall not be required to procure or maintain any insurance otherwise required to be procured or maintained under this clause (b), if such insurance is not commercially available in the commercial insurance market.

- (ii) effect the Insurances or cause or procure the same to be effected:
 - (1) in such amounts and upon such terms and with such deductibles as shipowners engaged in the same or similar business and similarly situated would deem commercially prudent under the circumstances; and
 - (2) through the owner's approved broker (the "Owner's Insurance Broker") and reputable independent insurance companies and/or underwriters (including mutual insurance schemes and /or captive insurance schemes) in Europe, North America, the Far East and other established insurance markets except that the insurances against protection and indemnity risks may be effected by the entry of the Collateral Vessels with protection and indemnity associations which are members of the International Group Agreement or, if the International Group Agreement has disbanded and there is no successor or replacement body of associations, other leading protection and indemnity associations and the insurances against war risks may be effected by the entry of the Collateral Vessels with leading war risks associations (hereinafter called the "Insurers");
- (iii) renew or replace all such Insurances or cause or procure the same to be renewed or replaced before the relevant policies or contracts expire and to procure that the Owners' Insurance Broker and/or the relevant protection and indemnity association or war risks association shall promptly confirm in writing to the Trustee, upon its request, as and when each such renewal or replacement is effected;

- (iv) duly and punctually pay, or cause duly and punctually to be paid, all premiums, calls, contributions or other sums payable in respect of all such Insurances, to produce or to cause to be produced all relevant receipts when so required by the Collateral Agent, at the direction of the Controlling Party, and duly and punctually to perform and observe or to cause duly and punctually to be performed and observed any other obligations and conditions under all such Insurances;
- (v) procure that all policies, binders, cover notes or other instruments of the Insurances referred to in clauses (1), (2) and (5) of clause (i) above shall be taken out in the name of the Company or any Subsidiary Guarantor or a Restricted Subsidiary, with the Collateral Agent as an additional insured (without liability for premiums), as their respective interests may appear, and shall incorporate a loss payable clause naming the Collateral Agent as loss payee prepared in compliance with the terms of the Insurances Assignment;
- (vi) procure that, upon request of the Collateral Agent, at the direction of the Controlling Party, originals or copies of all such instruments of Insurances shall be from time to time delivered to the Trustee after receipt by a Restricted Subsidiary or the Company thereof;
- (vii) not employ any Collateral Vessel or suffer any Collateral Vessel to be employed otherwise than in conformity with the terms of all policies, bindings, cover notes or other instruments of the Insurances (including any warranties express or implied therein) without first obtaining the written consent of the Insurers to such employment (if required by such Insurers) and complying with such requirements as to extra premiums or otherwise as the Insurers may prescribe;
- (viii) cause any proceeds in respect of the Insurances referred to in paragraph (i) above (except clauses (3), (4) and, as applicable, (6) of such paragraph) to be paid to the Company or any Subsidiary Guarantor that then owns any Collateral Vessel or is an Internal Charterer (subject to provisions as to named insureds, additional insureds and loss payees in favor of the Collateral Agent as required by this <u>Section 4.25</u>);
- (ix) upon the request of the Collateral Agent, do all things necessary, proper and desirable, and execute and deliver all documents and instruments, to enable the Collateral Agent, as applicable, to collect or recover any moneys to become due in respect of the Insurances.

Section 4.26 Further Assurances.

The Company shall, and shall cause each Collateral Grantor to, at the Company's sole cost and expense:

- (a) at the request of the Collateral Agent, acting at the direction of the Controlling Party, execute and deliver all such agreements and instruments and take all further action as may be reasonably necessary or desirable (i) to describe more fully or accurately the property intended to be Collateral or the obligations intended to be secured by any Collateral Agreement and/or (ii) to continue and maintain the Collateral Agent's first-priority perfected security interest in the Collateral (subject to Permitted Collateral Liens and the Intercreditor Agreement); and
- (b) at the request of the Collateral Agent, acting at the direction of the Controlling Party, file any such notice filings or other agreements or instruments as may be reasonably necessary or desirable under applicable law to perfect the Liens created by the Collateral Agreements.

Section 4.27 Limitation on Certain Agreements.

The Company shall not permit any Collateral Grantor to enter into any agreement that requires the proceeds received from any sale of Collateral to be applied to repay, redeem, defease or otherwise acquire or retire any Indebtedness of any Person, other than (i) the Notes, (ii) any other Pari Passu Obligations or (iii) otherwise as may be permitted or required by this Indenture, the Intercreditor Agreement and the Collateral Agreements, including with respect to any Permitted Collateral Liens; *provided* that any such agreement may be entered into to the extent that they permit such proceeds to be applied to Pari Passu Obligations prior to or instead of such other Indebtedness.

ARTICLE 5 SUCCESSORS

Section 5.01 Merger, Consolidation, or Sale of Assets.

- (a) The Company will not, directly or indirectly: (A) amalgamate, consolidate or merge with or into another Person (whether or not the Company is the Person formed by or surviving any such amalgamation, consolidation or merger); or (B) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Company and the Restricted Subsidiaries, taken as a whole, in each case, in one transaction or a series of related transactions, including by way of liquidation or dissolution, to another Person, unless:
 - (1) either (x) the Company will be the surviving or continuing Person or (y) the Person formed by or surviving any such amalgamation, consolidation or merger or to which such sale, assignment, transfer, conveyance or other disposition has been made is a Person organized or existing under the laws of a Permitted Jurisdiction (the Company or such Person, as the case may be, being herein called the "Successor Company");

- (2) the Successor Company (if other than the Company) assumes all the obligations of the Company under the Notes and the other Obligations under this Indenture and the Collateral Agreements to which the Company is a party, if any, and agrees to be bound by all the provisions of this Indenture and such Collateral Agreements pursuant to a supplemental indenture or an amendment thereto, as applicable, in form and substance reasonably satisfactory to the Trustee;
- (3) immediately before and after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;
- (4) except with respect to a transaction solely between or among the Company and any of the Restricted Subsidiaries, immediately after giving *pro forma* effect to such transaction, any related financing transactions and the use of proceeds therefrom and treating any Indebtedness that becomes an obligation of the Company or any of the Restricted Subsidiaries as a result of such transaction as having been Incurred by the Company or such Restricted Subsidiary, as the case may be, at the time of the transaction, either (i) the Company or the Successor Company (if other than the Company) would be permitted to Incur at least \$1.00 of additional Indebtedness pursuant to the Consolidated Interest Coverage Ratio test set forth in Section 4.09(a) or (ii) the Company or the Successor Company (if other than the Company) would have a Consolidated Interest Coverage Ratio for the applicable four quarter period not lower than such ratio prior to giving effect to such transaction;
- (5) in the event that the Successor Company is organized in a jurisdiction that is different from the jurisdiction in which Company was organized immediately before giving effect to such transaction, the Successor Company has delivered to the Trustee an Opinion of Counsel satisfactory to the Trustee stating that the obligations of the Successor Company under this Indenture are enforceable under the laws of such Permitted Jurisdiction, subject to customary exceptions; and
- (6) the Company or Successor Company delivers to the Trustee an Officers' Certificate and Opinion of Counsel, in each case, stating that such amalgamation, consolidation, merger or transfer and such supplemental indenture and each such amendment comply with this Section 5.01(a).

For purposes of the foregoing, entry by the Company or any Subsidiary of the Company into one or more Drilling Contracts or other charters, pool agreements or drilling contracts with respect to any Vessels will be deemed not to constitute a sale, assignment, transfer, conveyance or other disposition subject to this Section 5.01(a).

- (b) No Guarantor will, directly or indirectly, amalgamate, consolidate or merge with or into (whether or not such Guarantor is the surviving Person), another Person, other than the Company or another Guarantor, unless:
 - (1) immediately after giving effect to such transaction or series of related transactions, no Default or Event of Default exists;

(2) either:

- (i) (x) such Guarantor is the surviving Person or (y) the Person formed by or surviving any such consolidation or merger is a Person organized or existing under the laws of a Permitted Jurisdiction (such Guarantor or such Person, as the case may be, being herein called the "Successor Guarantor") and the Successor Guarantor (if other than such Guarantor) expressly assumes all the obligations of such Guarantor under this Indenture and its Subsidiary Guarantee and any Collateral Agreements pursuant to a supplemental indenture, amendment or other documents or instruments in form and substance reasonably satisfactory to the Trustee; or
 - (ii) such consolidation or merger does not violate the provisions of <u>Section 4.10</u>;
- (3) the Company delivers to the Trustee an Officers' Certificate and Opinion of Counsel, each stating that such merger or consolidation and such supplemental indenture and each such amendment comply with this <u>Section 5.01(b)</u>;
- (4) if applicable, the Successor Guarantor causes such amendments, supplements or other instruments with respect to the Collateral Agreements to be executed, delivered, filed and recorded, as applicable, in such jurisdictions as may be required by applicable law to preserve and protect the Lien of the Collateral Agreements on any Collateral owned by or transferred to the Successor Guarantor and deliver an Opinion of Counsel as to the enforceability thereof and such other matters as the Trustee may reasonably request; and
- (5) any Collateral owned by or transferred to the Successor Guarantor shall (i) continue to constitute Collateral under this Indenture and the Collateral Agreements, (ii) be subject to the Lien in favor of the Collateral Agent for the benefit of the holders of the Pari Passu Obligations and (iii) not be subject to any Lien other than Permitted Collateral Liens.

Section 5.02 Successor Substituted.

Upon any amalgamation, consolidation or merger, or any sale, assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of the Company in accordance with <u>Section 5.01</u> in which the Company is not the surviving entity, the Successor Company shall succeed to, and be substituted for (so that from and after the date of such amalgamation, consolidation or merger, sale, assignment, transfer, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the Successor Company and not to the Company), and may exercise every right and power of, the Company under this Indenture with the same effect as if the Successor Company had been named as the Company in this Indenture, and thereafter, the Company will be relieved of all obligations and covenants under this Indenture and the Notes and the Collateral Agreements to which the Company is a party.

ARTICLE 6 DEFAULTS AND REMEDIES

Section 6.01 Events of Default.

Each of the following is an "Event of Default":

- (a) default in any payment of interest or any Additional Amounts with respect to the Notes when due, which default continues for 30 days;
- (b) default in the payment when due (at maturity, upon optional redemption, upon declaration of acceleration or otherwise) of the principal of, or premium, if any, on, the Notes or failure by the Company to redeem or repurchase the Notes when required pursuant to this Indenture or the Notes;
 - (c) failure by the Company or any Guarantor to comply with Section 5.01;
- (d) (1) except with respect to <u>Section 4.03</u>, failure by the Company or any of the Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any covenant or agreement (other than a default referred to in clauses (a), (b) and (c) above) contained in this Indenture, the Collateral Agreements or the Notes, or (2) failure by the Company for 120 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with <u>Section 4.03</u>;
- (e) a default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Company or any of the Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of the Restricted Subsidiaries), whether such Indebtedness or guarantee now exists or is created after the Issue Date, if that default:
 - (1) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or
 - (2) results in the acceleration of such Indebtedness prior to its Stated Maturity,

and, in either case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$25.0 million or more; *provided*, however, that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 60 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default and any consequential acceleration of the Notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

- (f) failure by the Company or any of the Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$25.0 million, which judgments are not paid, discharged or stayed for a period of 60 days;
- (g) (1) the Collateral Agreements shall for any reason cease to create a valid and perfected first-priority Lien (subject to payment priorities in favor of holders of Revolving Credit Agreement Obligations pursuant to the terms of the Intercreditor Agreement and subject to Permitted Collateral Liens) on any portion of the Collateral having a Fair Market Value in excess of \$25.0 million (in each case, other than in accordance with the terms of this Indenture, the Intercreditor Agreement or the terms of the Collateral Agreements) or (2) the Company or any Restricted Subsidiary asserts in writing that any Lien created under the Collateral Agreements is invalid or unenforceable;
- (h) except as permitted by this Indenture or any Subsidiary Guarantee, any Subsidiary Guarantee of a Significant Subsidiary is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor that is a Significant Subsidiary, or any Person duly acting on behalf of any such Guarantor, denies or disaffirms its obligations under its Subsidiary Guarantee; and
- (i) the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, pursuant to or within the meaning of Bankruptcy Law:
 - (1) commences a voluntary case,
 - (2) consents in writing to the entry of an order for relief against it in an involuntary case,
 - (3) consents in writing to the appointment of a Custodian of it or for all or substantially all of its property,
 - (4) makes a general assignment for the benefit of its creditors, or
 - (5) admits in writing it generally is not paying its debts as they become due; or
 - (j) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (1) is for relief against the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in an involuntary case;
 - (2) appoints a Custodian (x) of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, or (y) for all or

substantially all of the property of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or

(3) orders the liquidation of the Company, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

Section 6.02 <u>Acceleration</u>.

If any Event of Default occurs and is continuing, the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes, by notice to the Company and the Trustee, may (and the Trustee will, if directed by the Holders of at least 25% in aggregate principal amount of the then outstanding Notes) declare all the Notes to be due and payable immediately. Upon any such declaration, the Notes shall become due and payable immediately, together with all accrued and unpaid interest, Additional Amounts, if any, and premium, if any, thereon. Notwithstanding the preceding, if an Event of Default specified in clause (i) or (j) of Section 6.01 occurs with respect to the Company or any Guarantor, all outstanding Notes shall become due and payable immediately without further action or notice, together with all accrued and unpaid interest, Additional Amounts, if any, and premium, if any, thereon.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, rescind an acceleration and its consequences if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except with respect to nonpayment of principal, interest, premium or Additional Amounts, if any, that have become due solely because of the acceleration) have been cured or waived. No such rescission shall affect any subsequent Default or impair any right consequent thereon.

Section 6.03 Other Remedies.

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of and interest, premium, if any, and Additional Amounts, if any, on, the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 <u>Waiver of Past Defaults</u>.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all of the Notes, waive any existing Default or Event of Default and its consequences under this Indenture except a continuing Default or Event of Default in the payment of principal of, premium, if any, interest, if any, or Additional Amounts, if any, on, the Notes (other than a payment Default or payment Event of Default that resulted from an acceleration that has been rescinded). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority.

The Holders of a majority in aggregate principal amount of the then outstanding Notes will have the right to direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in any financial or personal liability. In case an Event of Default has occurred and is continuing, prior to taking any action hereunder, the Trustee shall be entitled to satisfactory indemnification or security (or both) against all loss, liability and expenses caused by the taking or not taking of such action.

Section 6.06 <u>Limitation on Suits</u>.

Except to enforce the rights to receive payment of principal, premium, if any, or interest or Additional Amounts, if any, when due, pursuant to Section 6.07, no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

- (a) such Holder has previously given the Trustee written notice that an Event of Default is continuing;
- (b) Holders of at least 25% in aggregate principal amount of the then outstanding Notes have made a written request to the Trustee to pursue the remedy;
- (c) such Holders have offered the Trustee, and the Trustee has received (if requested), security or indemnity (or both) satisfactory to it against any loss, liability or expense;
- (d) the Trustee has not complied with such request within 60 days after its receipt of the request and the offer of security or indemnity (or both) satisfactory to it; and
- (e) Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

Section 6.07 Rights of Holders of Notes to Receive Payment.

Notwithstanding any other provision of this Indenture, the rights of any Holder to receive payment of principal of, premium, if any, interest, if any, or Additional Amounts, if any, on, the Notes, on or after the respective due dates expressed in the Notes (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company and the Guarantors for the whole amount of principal of, interest, premium, if any, and Additional Amounts, if any, remaining unpaid on the Notes and interest on overdue principal and, to the extent lawful, interest and Additional Amounts, if any, and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 <u>Trustee is Authorized to File Proofs of Claim</u>.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 <u>Priorities</u>.

If the Trustee collects any money pursuant to this Article, subject to the Intercreditor Agreement, it shall pay out the money in the following order:

- (a) *First*: to the Trustee and its agents and attorneys for amounts due under <u>Section 7.06</u>, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and costs and expenses of collection incurred by the Trustee;
- (b) *Second*: to the Holders for amounts due and unpaid on the Notes for principal, premium, if any, interest, if any, and Additional Amounts, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, interest, if any, and Additional Amounts, if any, respectively; and
 - (c) Third: to the Company or to such other Person as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07, or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

Section 6.12 The Collateral Agent.

Whenever in the exercise of any remedy available to the Trustee or the exercise of any trust or power conferred on it with respect to the Notes, the Trustee may also direct the Collateral Agent in the exercise of any of the rights and remedies available to the Collateral Agent pursuant to the Collateral Agreements.

ARTICLE 7 TRUSTEE

Section 7.01 Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

- (b) Except during the continuance of an Event of Default:
- (i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
- (ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.
- (c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:
 - (i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;
 - (ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and
 - (iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to <u>Section 6.05</u>.
- (d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.
- (e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. All money received by the Trustee shall, until applied as herein provided, be held in trust for the payment of the principal of, premium, if any, interest, if any, and Additional Amounts, if any, on the Notes.
 - (f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any liability.
- (g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its rights to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder and in its capacity as Trustee under any other agreement executed in connection with this Indenture to which the Trustee is a party.

Section 7.02 Rights of Trustee.

- (a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.
- (b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel of its own selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.
- (c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed by it with due care.
- (d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture; *provided* that the Trustee's conduct does not constitute willful misconduct or gross negligence.
- (e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.
- (f) If an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any Holders unless such Holders have offered to the Trustee, and the Trustee has received, indemnity or security (or both) satisfactory to it against any loss, liability or expense that might be incurred by it in compliance with such request or direction.
- (g) The Trustee shall not be deemed to have knowledge of any Default or Event of Default except: (1) any Event of Default occurring pursuant to <u>Section 6.01(a)</u> or <u>6.01(b)</u>; or (2) any Default or Event of Default of which a Responsible Officer of the Trustee shall have received written notification or obtained actual knowledge.
 - (h) The permissive rights of the Trustee to act hereunder shall not be construed as a duty.
- (i) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.
- (j) The Trustee may request that the Company deliver an Officers' Certificate setting forth the names of individuals and titles of officers authorized at such times to take specified actions pursuant to this Indenture.

Section 7.03 <u>Individual Rights of Trustee</u>.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company, any Guarantor or any of their Affiliates with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest (as defined in the Trust Indenture Act of 1939, amended), it must eliminate that conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee is also subject to Section 7.09.

Section 7.04 <u>Trustee's Disclaimer</u>.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Notes or any other Note Document, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 Notice of Defaults.

If a Default or Event of Default occurs and is continuing and if, in accordance with Section 7.02(g), the Trustee has knowledge thereof, the Trustee shall mail to the Holders a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, or interest, premium, or Additional Amounts, if any, on, any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.06 Compensation and Indemnity.

The Company shall pay to the Trustee from time to time such reasonable compensation as the Company and the Trustee may agree in writing for the Trustee's acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

The Company and the Guarantors shall indemnify the Trustee, jointly and severally, against any and all losses, liabilities, damages, claims or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses (including, without limitation, fees and expenses of counsel) of enforcing

this Indenture against the Company and the Guarantors (including this Section 7.06) and defending itself against any claim (whether asserted by the Company, any Guarantor or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability, damage, claim or expense may be attributable to its gross negligence or willful misconduct. The Trustee shall notify the Company and the Guarantors promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company and the Guarantors shall not relieve the Company or the Guarantors of their obligations hereunder. The Company and the Guarantors shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have separate counsel and the Company and the Guarantors shall pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company and the Guarantors under this <u>Section 7.06</u> shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

To secure the Company's and the Guarantors' payment obligations in this <u>Section 7.06</u>, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal, premium, if any, and interest or Additional Amounts, if any, on particular Notes. Such Lien shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

When the Trustee incurs expenses or renders services after an Event of Default specified in <u>Section 6.01(i)</u> or <u>6.01(j)</u> occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The immunities, protections and exculpations available to the Trustee under this Indenture shall also be available to each Agent, and the Company's and each Guarantor's obligations under this <u>Section 7.06</u> to compensate and indemnify the Trustee shall extend likewise to each Agent.

Section 7.07 Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this <u>Section 7.07</u>.

The Trustee may resign in writing upon thirty (30) days notice at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing and may appoint a successor trustee with the consent of the Company. The Company may remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.09;
- (b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

- (c) a receiver, Custodian or public officer takes charge of the Trustee or its property; or
- (d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company or the Holders of at least 10% of the aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction, at the expense of the Company, for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder of a Note who has been a Holder of a Note for at least six months, fails to comply with Section 7.09, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to the Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.06. Notwithstanding replacement of the Trustee pursuant to this Section 7.07, the Company's and the Guarantors' obligations under Section 7.06 shall continue for the benefit of the retiring Trustee.

Section 7.08 Successor Trustee by Merger, etc.

If the Trustee consolidates with, or merges or converts into, or transfers or sells all or substantially all of its corporate trust business or assets to, another corporation or banking association, the successor corporation or banking association without any further act shall be the successor Trustee. As soon as practicable, the successor Trustee shall mail a notice of its succession to the Company and the Holders.

Section 7.09 <u>Eligibility; Disqualification</u>.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least \$100 million as set forth in its most recent published annual report of condition. No obligor upon the Notes shall serve as a Trustee.

ARTICLE 8 LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 Option to Effect Legal Defeasance or Covenant Defeasance.

The Company may, at any time, elect to have either <u>Section 8.02</u> or <u>8.03</u> be applied with respect to all outstanding Notes and all obligations of the Guarantors upon compliance with the conditions set forth below in this <u>Article 8</u>.

Section 8.02 <u>Legal Defeasance and Discharge</u>.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.02, subject to the satisfaction of the conditions set forth in Section 8.04, the Company shall be deemed to have discharged its obligations with respect to all outstanding Notes and, to the extent related to the Notes and the Subsidiary Guarantees, the Collateral Agreements to which it is a party, each Guarantor shall be deemed to have discharged its obligations with respect to its Subsidiary Guarantee and, to the extent related to the Notes and the Subsidiary Guarantees, the Collateral Agreements to which it is a party and each other Collateral Grantor shall be deemed to have discharged its obligations with respect to the Collateral Agreements, to the extent related to the Notes and the Subsidiary Guarantees, to which it is a party, on the date the conditions set forth in Section 8.04 below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes, and each Guarantor shall be deemed to have paid and discharged its Subsidiary Guarantee (which in each case shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 and the other Sections of this Indenture referred to in clauses (a) and (b) below) and to have satisfied all its other obligations under the Notes or such Subsidiary Guarantees and this Indenture, and the Company and the other Collateral Grantors shall be deemed to have satisfied all of their obligations under the Collateral Agreements, to the extent related to the Notes and the Subsidiary Guarantees (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

- (a) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, and premium, interest or Additional Amounts, if any, on, such Notes when such payments are due from the trust referred to in <u>Section 8.04</u>;
 - (b) the Company's obligations with respect to the Notes under Sections 2.03, 2.04, 2.06, 2.07, 2.10 and 4.02 and the Appendix;
- (c) the rights, powers, trusts, duties, indemnities and immunities of the Agents, and the Company's and the Guarantors' obligations in connection therewith and under <u>Section 7.06</u>; and
 - (d) the Legal Defeasance and Covenant Defeasance provisions of this Article 8.

Subject to compliance with this <u>Article 8</u>, the Company may exercise its option under this <u>Section 8.02</u> notwithstanding the prior exercise of its option under <u>Section 8.03</u>.

Section 8.03 Covenant Defeasance.

Upon the Company's exercise under Section 8.01 of the option applicable to this Section 8.03, the Company and each of the Guarantors shall, subject to the satisfaction of the conditions set forth in Section 8.04, be released from their respective obligations under the covenants contained in Article 4 (other than those in Sections 4.01, 4.02, 4.04, 4.06, 4.14, 4.22 and 4.23) and in clause (4) of Section 5.01(a) and in Article 11 and under all Collateral Agreements, to the extent related to the Notes and the Subsidiary Guarantees, to which it is a party on and after the date the conditions set forth in Section 8.04 are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Subsidiary Guarantees, the Company and any Guarantor may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01, but, except as specified above, the remainder of this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04, Section 6.01(d)(2) and Sections 6.01(e) through 6.01(h) shall not constitute Events of Default.

Section 8.04 Conditions to Legal or Covenant Defeasance.

In order to exercise either Legal Defeasance or Covenant Defeasance:

- (a) the Company must irrevocably deposit with the Paying Agent, in trust, for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants, to pay the principal of, and premium, if any, and interest and Additional Amounts, if any, on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to such stated date for payment or to a particular redemption date;
- (b) in the case of an election under <u>Section 8.02</u>, the Company shall have delivered to the Trustee, the Registrar and the Paying Agent an Opinion of Counsel reasonably acceptable to the Trustee confirming that:
 - (1) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or
 - (2) since the Issue Date, there has been a change in the applicable federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel will confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

- (c) in the case of an election under Section 8.03, the Company shall have delivered to the Trustee, the Registrar and the Paying Agent an Opinion of Counsel reasonably acceptable to the Trustee confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;
- (d) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from, or otherwise in connection with, the borrowing of funds to be applied to such deposit pursuant to this <u>Section 8.04</u> (and any similar concurrent deposit relating to other Indebtedness) or the grant of any Lien securing such borrowing);
- (e) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Restricted Subsidiaries is a party or by which the Company or any of its Restricted Subsidiaries is bound;
- (f) the Company must deliver to the Trustee, the Registrar and the Paying Agent an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over the other creditors of the Company or any Guarantor with the intent of defeating, hindering, delaying or defrauding any creditors of the Company, any Guarantor or others; and
- (g) the Company shall have delivered to the Trustee, the Registrar and the Paying Agent an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.

Subject to Section 8.06, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee pursuant to Section 8.04 or 8.08 in respect of the outstanding Notes shall be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company or any of its Subsidiaries acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, interest, premium, if any, and Additional Amounts, if any, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to <u>Section 8.04</u> or <u>8.08</u> or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Anything in this <u>Article 8</u> to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the written request of the Company any money or non-callable Government Securities held by it as provided in <u>Section 8.04</u> or <u>8.08</u> which, in the opinion of a nationally recognized investment banking, appraisal firm or firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under <u>Section 8.04(a)</u>), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance, Covenant Defeasance or Discharge, as the case may be.

Section 8.06 Repayment to the Company.

Subject to applicable escheat and abandoned property laws, any money or non-callable Government Securities deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, or interest, premium, if any, or Additional Amounts, if any, on, any Note and remaining unclaimed for two years after such principal, interest, premium, if any, or Additional Amounts, if any, has become due and payable shall be paid to the Company on its written request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money or non-callable Government Securities, and all liability of the Company as trustee thereof, shall thereupon cease; *provided*, *however*, that the Trustee or such Paying Agent, before being required to make any such repayment, shall at the written request and expense of the Company cause to be published once, in the *New York Times* or *The Wall Street Journal* (national edition), notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07 Reinstatement.

If the Trustee or the Paying Agent is unable to apply any money or non-callable Government Securities in accordance with Section 8.05, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 until such time as the Trustee or the Paying Agent is permitted to apply all such money in accordance with Section 8.05; provided, however, that, if the Company or any Guarantor makes any payment of principal of, interest, premium, if any, or Additional Amounts, if any, on, any Note following the reinstatement of its obligations, the Company or such Guarantor, as

applicable, shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities deposited with or held by the Trustee or the Paying Agent.

Section 8.08 <u>Discharge</u>.

This Indenture, the Subsidiary Guarantees and , to the extent related to the Notes and the Subsidiary Guarantees, all Collateral Agreements shall be discharged and shall cease to be of further effect as to all Notes issued hereunder (except as to (x) the rights of Holders of outstanding Notes to receive solely from the trust fund described in clause (1)(b) of this Section 8.08, and as more fully set forth in such clause (1)(b), payments in respect of the principal of and interest, premium, if any, and Additional Amounts, if any, on, such Notes when such payments are due, (y) the Company's obligations with respect to such Notes under Sections 2.03, 2.04, 2.05, 2.06, 2.07, 2.10 and 4.02 and the Appendix and (z) the rights, powers, trusts, duties and immunities of the Trustee and each Agent hereunder and the Company's obligations in connection therewith), and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture with respect to all the Notes, when:

(1) either:

- (a) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has been deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for cancellation; or
- (b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable or will become due and payable within one year by reason of the mailing of a notice of redemption or otherwise and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Paying Agent as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination of cash in U.S. dollars and non-callable Government Securities, in amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, accrued interest, premium, if any, interest, if any, and Additional Amounts, if any, to the date of fixed maturity or redemption;
- (2) in respect of clause (1)(b) of this <u>Section 8.08</u>, the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound (other than with respect to the borrowing of funds to be applied concurrently to make the deposit required to effect such satisfaction and discharge and any similar concurrent deposit relating to other Indebtedness, and in each case the granting of Liens to secure such borrowings);

- (3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture;
- (4) the Company has delivered irrevocable instructions to the Trustee, the Registrar and the Paying Agent to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be; and
- (5) the Company has delivered (a) an Officers' Certificate to the Trustee, the Registrar and the Paying Agent stating that all conditions precedent to satisfaction and discharge of this Indenture ("Discharge") have been satisfied and (b) an Opinion of Counsel to the Trustee, the Registrar and the Paying Agent stating that all conditions precedent to Discharge have been satisfied.

ARTICLE 9 AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 Without Consent of Holders of Notes.

Notwithstanding the provisions of <u>Section 9.02</u>, without the consent of any Holder, the Company, the Guarantors, the Trustee and, if any amendment relates to or any Collateral Agreement, the Collateral Agent, may amend or supplement this Indenture, the Notes, the Subsidiary Guarantees, the Intercreditor Agreement and the Collateral Agreements in the following circumstances:

- (a) to cure any ambiguity, defect or inconsistency;
- (b) to provide for uncertificated Notes in addition to or in place of certificated Notes;
- (c) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders in the case of a merger or consolidation or sale of all or substantially all of the Company's or such Guarantor's assets, as applicable;
- (d) to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder in any material respect;
- (e) to conform the text of this Indenture, the Notes, the Subsidiary Guarantees, the Intercreditor Agreement or the Collateral Agreements to any provision of the "Description of Notes" in the Offering Memorandum to the extent that such provision in such "Description of Notes" was intended to set forth, verbatim or in substance, a provision of this Indenture, the Intercreditor Agreement, the Notes, the Subsidiary Guarantees or the Collateral Agreements, which intent may be evidenced by an Officers' Certificate to that effect;
- (f) to evidence and provide for the acceptance of the appointment under this Indenture, the Intercreditor Agreement and the Collateral Agreements of a successor Trustee or Collateral Agent;

- (g) to enter into additional or supplemental Collateral Agreements and to add additional assets as Collateral to secure the Notes and the Subsidiary Guarantees;
- (h) to release Collateral or any Subsidiary Guarantee when permitted or required by this Indenture, the Intercreditor Agreement or the Collateral Agreements or to amend or supplement any Collateral Agreement in accordance with the Intercreditor Agreement or the Collateral Agreements;
- (i) to allow any Guarantor to execute a supplemental indenture and/or a Subsidiary Guarantee with respect to the Notes and to add any additional Guarantor;
 - (j) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture;
- (k) to enter into any and all Collateral Agreements and the transactions contemplated thereby respecting the registration and mortgaging of the Collateral Vessels and to perfect the security interests and Liens granted therein;
- (l) to accept and consent to, and to take, any and all steps to perfect a security interest in any of the Collateral Vessels and other Collateral granted pursuant to the Collateral Agreements;
- (m) to comply with requirements of the Trust Indenture Act of 1939, as amended, if applicable, the Irish Stock Exchange or any other securities exchange on which the Notes are listed for trading or quotation; or
 - (n) with respect to any Collateral Agreement, as provided in the Intercreditor Agreement.

Upon the request of the Company, and upon receipt by the Trustee of the documents described in <u>Section 9.06</u>, the Trustee shall join with the Company and the Guarantors in the execution of any amendment or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into any such amendment or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 With Consent of Holders of Notes.

Except as provided above in <u>Section 9.01</u> and below in this <u>Section 9.02</u>, the Company, the Guarantors, the Trustee and the Collateral Agent may amend or supplement this Indenture, the Notes and the Collateral Agreements by the execution of a supplemental indenture or, in the case of any amendment or supplement to the Collateral Agreements, by the execution of an appropriate amendment or supplement thereto, with the consent of the Holders of at least a majority in aggregate principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes) and, subject to <u>Sections 6.04</u> and <u>6.07</u>, any existing Default or Event of Default or compliance with any provision of this Indenture, the Notes, the Subsidiary Guarantees, the

Intercreditor Agreement or any Collateral Agreement may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), in each case in addition to any required consent of holders of other Pari Passu Obligations that may be required with respect to an amendment of or waiver under a Collateral Agreement or the Intercreditor Agreement. However, without the consent of each Holder of an outstanding Note affected thereby, an amendment, supplement or waiver may not (with respect to any Notes held by a non-consenting Holder):

- (a) reduce the percentage of principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (b) reduce the principal of, or change the fixed maturity of, any Note or alter the provisions with respect to the redemption of the Notes (other than with respect to minimum notice required for redemption or the provisions of <u>Sections 4.10</u> and <u>4.15</u>), including any provision relating to the premium payable upon any such purchase or redemption;
 - (c) reduce the rate of or change the time for payment of interest, including default interest, on any Note;
- (d) impair the rights of any Holder of Notes to institute suit for the enforcement of any payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the redemption date);
- (e) waive a Default or Event of Default in the payment of principal of, or premium, if any, interest, if any, or Additional Amounts, if any, on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment Default that resulted from such acceleration);
 - (f) make any Note payable in money other than that stated in the Notes;
- (g) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders to receive payments of principal of, or premium, if any, interest, if any, or Additional Amounts, if any, on, the Notes;
 - (h) waive a redemption payment with respect to any Note (other than a payment required by Section 3.08, 3.09, 4.10 or 4.15);
- (i) release any Guarantor from any of its obligations under its Subsidiary Guarantee or this Indenture, except in accordance with the terms of this Indenture; or
 - (j) make any change in the preceding amendment, supplement and waiver provisions.

In addition, except as otherwise provided in this Indenture, the Intercreditor Agreement and the Collateral Agreements, the consent of Holders of at least two-thirds in aggregate principal amount of the then outstanding Notes will be required to release the Liens for the benefit of the Holders on all or substantially all of the Collateral.

Upon the request of the Company and upon the receipt by the Trustee of evidence satisfactory to the Trustee of the consent of the Holders as aforesaid, and upon receipt by the Trustee of the documents described in <u>Section 9.06</u>, the Trustee shall join with the Company and the Guarantors in the execution of such amendment, supplement or waiver, unless such amendment, supplement or waiver affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such amendment, supplemental indenture or waiver.

It shall not be necessary for the consent of the Holders under this <u>Section 9.02</u> to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this <u>Section 9.02</u> becomes effective, the Company shall mail to the Holders a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such amendment, supplement or waiver.

Section 9.03 Consents in connection with Purchase, Tender or Exchange.

A consent to any amendment, supplement or waiver under this Indenture by any Holder given in connection with a purchase, tender or exchange of such Holder's Notes shall not be rendered invalid by such purchase, tender or exchange.

Section 9.04 Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of such Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and, except as provided in the second succeeding paragraph, thereafter binds every Holder.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment, supplement or waiver. If a record date is fixed, then notwithstanding the second to last sentence of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment, supplement or waiver or revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date except to the extent that the requisite number of consents to the amendment, supplement or waiver have been obtained within such 90-day period or as set forth in the next paragraph of this Section 9.04.

After an amendment, supplement or waiver becomes effective, it shall bind every Holder, unless it makes a change described in any of clauses (a) through (j) of Section 9.02, in which case, the amendment, supplement or waiver shall bind only each Holder of a Note who has consented to it and every subsequent Holder of a Note or portion of a Note that evidences the same indebtedness as the consenting Holder's Note.

Section 9.05 Notation on or Exchange of Notes.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company, in exchange for all Notes, may issue and the Trustee shall authenticate new Notes that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Note shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 Trustee to Sign Amendments, etc.

The Trustee shall sign any amendment or supplemental indenture or grant any waiver authorized pursuant to this <u>Article 9</u> if the amendment or supplemental indenture or waiver does not adversely affect its rights, duties, liabilities or immunities. If any such amendment, supplemental indenture or waiver does adversely affect the rights, duties, liabilities or immunities of the Trustee, the Trustee may, but need not, sign such amendment, supplemental indenture or waiver, the Trustee shall be entitled to receive and (subject to <u>Section 7.01</u>) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amendment, supplemental indenture or waiver is authorized or permitted by this Indenture.

Section 9.07 Acts of Holders.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given, made or taken by Holders shall be in writing may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and (subject to Section 7.01) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

Without limiting the generality of this Section, unless otherwise provided in or pursuant to this Indenture, (i) a Holder, including the Depository or its nominee that is a Holder of a Global Note, may give, make or take, by an agent or agents duly appointed in writing, any request, demand, authorization, direction, notice, consent, waiver or other action provided in or pursuant to this Indenture to be given, made or taken by Holders, and the Depository or its nominee that is a Holder of a Global Note may duly appoint in writing as its agent or agents

members of, or participants in, the Depository holding interests in such Global Note in the records of the Depository; and (ii) with respect to any Global Note, any consent or other action given, made or taken by an Agent Member by electronic means in accordance with the "Automated Tender Offer Procedures" system or other customary procedures of, and pursuant to authorization by, the Depositary shall be deemed to constitute the Act of the Holder of such Global Note, and such Act shall be deemed to have been delivered to the Company and the Trustee upon the delivery by the Depositary of an "agent's message" or other notice of such consent or other action having been so given, made or taken in accordance with the applicable policies and procedures of the Depositary.

- (b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a Person acting in a capacity other than such Person's individual capacity, such certificate or affidavit shall also constitute sufficient proof of the authority of the Person executing the same. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.
 - (c) The ownership of Notes shall be proved by the Register.
- (d) Without limiting the foregoing, a Holder entitled hereunder to give, make or take any action hereunder with regard to any particular Note may do so, or duly appoint in writing any Person or Persons as its agent or agents to do so, with regard to all or any part of the principal amount of such Note.

ARTICLE 10 GUARANTEES OF NOTES

Section 10.01 Subsidiary Guarantees.

Subject to this <u>Article 10</u>, each of the Guarantors hereby absolutely and unconditionally guarantees, jointly with the other Guarantors and severally, as primary obligor and not merely as surety, on a senior basis to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and their respective successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the Obligations of the Company hereunder and thereunder, that:

- (a) the principal of, and premium, if any, interest, if any, on, or Additional Amounts, if any, on, the Notes will be promptly paid in full when due, whether at Stated Maturity, by acceleration, upon repurchase or redemption or otherwise, and interest on the overdue principal of, and premium, if any, and (to the extent permitted by law) interest, if any, on, and Additional Amounts, if any, on, the Notes, and all other payment Obligations of the Company to the Holders or the Trustee under this Indenture or the Notes will be promptly paid in full and performed, all in accordance with the terms hereof and thereof; and
- (b) in case of any extension of time of payment or renewal of any Notes or any of such other Obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, subject to any applicable grace period, whether at Stated Maturity, by acceleration, upon repurchase or redemption or otherwise.

Failing payment when so due of any amount so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is an absolute, unconditional, present and continuing guarantee of payment and performance (and not a guarantee of collection) and is in no way conditioned upon any attempt to collect from the Company or any other Guarantor or any other action, occurrence or circumstance whatsoever.

The Guarantors hereby agree that their obligations hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance (other than complete performance) which might otherwise constitute a legal or equitable discharge or defense of a Guarantor. Each Guarantor further, to the extent permitted by law, hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenants that its Subsidiary Guarantee will not be discharged except by complete performance of the Obligations contained in the Notes and this Indenture.

If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors, or any Custodian, trustee or other similar official acting in relation to any of the Company or the Guarantors, any amount paid by the Company or any Guarantor to the Trustee or such Holder, the Subsidiary Guarantees, to the extent theretofore discharged, shall be reinstated in full force and effect.

Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (a) the maturity of the Obligations guaranteed hereby may be accelerated as provided in Article 6 for the purposes of its Subsidiary Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed thereby, and (b) in the event of any declaration of acceleration of such Obligations as provided in Article 6, such Obligations (whether or not due and payable) shall forthwith become due and payable by each Guarantor for the purpose of its Subsidiary Guarantee. The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantees.

Section 10.02 Releases of Subsidiary Guarantees.

The Subsidiary Guarantee of a Guarantor will be automatically and unconditionally released: (1) in connection with any sale or other disposition of all or substantially all of the properties or assets of such Guarantor (including by way of merger, consolidation or amalgamation) to a Person that is not (either before or after giving effect to such transaction) the

Company or a Restricted Subsidiary, if the sale or other disposition is conducted in accordance with <u>Sections 4.10</u> and <u>5.01(b)</u>, as applicable; (2) in connection with any sale or other disposition of the Capital Stock of such Guarantor, following which such Guarantor is no longer a Restricted Subsidiary of the Company, if the sale or other disposition is conducted in accordance with <u>Sections 4.10</u> and <u>5.01(b)</u>, as applicable; (3) upon Legal Defeasance, Covenant Defeasance or Discharge in accordance with <u>Article 8</u>; (4) unless an Event of Default has occurred and is continuing, upon the dissolution or liquidation of such Guarantor in compliance with <u>Section 5.01(b)</u>; or (5) unless an Event of Default has occurred and is continuing, if such Guarantor ceases to have interests in Collateral that would require it to become a Guarantor under <u>Section 4.13</u>.

Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that any of the conditions described in the foregoing clauses (1) through (5) has occurred, the Trustee shall execute any documents reasonably requested by the Company at the Company's expense in order to evidence the release of any Guarantor (other than the Company) from its obligations under its Subsidiary Guarantee. Any Guarantor not released from its obligations under its Subsidiary Guarantee shall remain liable for the full amount of principal of and interest, premium, if any, and Additional Amounts, if any, on, the Notes and for the other obligations of such Guarantor under this Indenture as provided in this Article 10.

Section 10.03 Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Subsidiary Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state or foreign law to the extent applicable to any Subsidiary Guarantee. The obligations of each Guarantor under its Subsidiary Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state or foreign law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally. Each Guarantor that makes a payment under its Subsidiary Guarantee shall be entitled, upon payment in full of all guaranteed Obligations under this Indenture, to seek contribution from each other Guarantor in an amount equal to such other Guarantor's prorata portion of such payment based on the respective net assets of all Guarantors at the time of such payment determined in accordance with GAAP.

Section 10.04 "Trustee" to Include Paying Agent.

In case at any time any Paying Agent other than the Trustee shall have been appointed and be then acting hereunder, the term "Trustee" as used in this <u>Article 10</u> shall in each case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its meaning as fully and for all intents and purposes as if such Paying Agent were named in this <u>Article 10</u> in place of the Trustee.

Section 10.05 Execution and Delivery of Guaranty.

The execution by each Guarantor of this Indenture (or a supplemental indenture hereto) evidences the Subsidiary Guarantee of such Guarantor, whether or not the person signing as an Officer of the Guarantor still holds that office at the time of authentication of any Note. The delivery of any Note by the Trustee after authentication constitutes due delivery of the Subsidiary Guarantee set forth in this Indenture on behalf of each Guarantor.

Section 10.06 Subrogation.

Each Guarantor shall be subrogated to all rights of Holders against the Company in respect of any amounts paid by the Guarantor pursuant to the provisions of <u>Section 10.01</u>; *provided* that no Guarantor shall be entitled to enforce or receive any payments arising out of, or based upon, such right of subrogation until all amounts then due and payable by the Company under this Indenture or the Notes shall have been paid in full.

Section 10.07 Luxembourg Guarantors.

The obligations of a Guarantor incorporated in Luxembourg (each, a "Luxembourg Guarantor") under this Article 10 shall at all times be limited to an aggregate amount not exceeding the greater of:

- (a) 90% of such Luxembourg Guarantor's own funds ("capitaux propres", as referred to in article 34 of the Luxembourg law of 19 December 2002 on the commercial register and annual accounts, as amended by the law of 10 December 2010 on the introduction of international accounting standards for undertakings) as reflected in its last annual accounts duly approved and available on the date of the enforcement of the Subsidiary Guarantee of such Guarantor; or
- (b) 90% of such Luxembourg Guarantor's own funds ("capitaux propres", as referred to in article 34 of the Luxembourg law of 19 December 2002 on the commercial register and annual accounts, as amended by the law of 10 December 2010 on the introduction of international accounting standards for undertakings) as reflected in its last annual accounts duly approved and available on the effective date of the Subsidiary Guarantee of such Guarantor,

except, in each case, to the extent that the Subsidiary Guarantee relates to the obligations of a direct or indirect subsidiary of the relevant Luxembourg Guarantor.

ARTICLE 11 SECURITY

Section 11.01 Collateral Agreements; Additional Collateral.

(a) <u>Security Agreements</u>. In order to secure the due and punctual payment of the Pari Passu Obligations, (i) on the Issue Date, simultaneously with the execution and delivery of this Indenture, the Guarantors have executed Collateral Agreements granting to the Collateral Agent for the benefit of the Secured Parties (in accordance with the Intercreditor Agreement) a first-priority

perfected Lien in the Collateral, and (ii) after the Issue Date, in accordance with the provisions of Sections 4.13 and 4.26 and this Article 11, if (I) any asset of the type which is required to constitute Collateral pursuant to this Indenture or the Collateral Agreements is acquired by any Guarantor and such asset is not automatically subject to a first-priority perfected Lien in favor of the Collateral Agent or (II) a Subsidiary of the Company that is not already a Guarantor is required to become a Guarantor pursuant to Section 4.13, then such Guarantor or such other Subsidiary shall, as soon as practicable after the acquisition of the applicable asset or the occurrence of the event requiring such Subsidiary to become a Guarantor (and, in any event, within 20 Relevant Business Days after such acquisition or event), execute and deliver the necessary Collateral Agreements in order to grant to the Collateral Agent a first-priority perfected Lien in all assets of such Guarantor or such other Subsidiary which are required to, but do not already, constitute Collateral. In each case described above, each Guarantor shall execute and deliver such other Collateral Agreements, deliver any certificates to the Collateral Agent in respect of the applicable Collateral as required by this Indenture and the applicable Collateral Agreements and take all other appropriate actions to ensure the Collateral Agent, for the benefit of the Secured Parties, has a first-priority perfected Lien therein. For the avoidance of doubt, the Guarantors shall not be required to grant a security interest in, and the Collateral shall not include, any Excluded Property, the Guarantors shall not be required to execute an assignment of any Drilling Contract, and in no event shall any Guarantor be required to take actions to perfect the Collateral Agent's security interest in trucks, trailers and other motor vehicles covered by a certificate of title under the law of any state.

The Company shall cause every Guarantor to make all filings (including filings of continuation statements and amendments to Uniform Commercial Code financing statements in the United States (or the applicable political subdivision, territory or possession thereof) that may be necessary to continue the effectiveness of such Uniform Commercial Code financing statements) and take all other actions as are reasonably necessary or required by the Collateral Agreements to maintain (at the sole cost and expense of the Guarantors) the security interest created by the Collateral Agreements in the Collateral as a first-priority perfected Lien.

All references to a "first-priority perfected Lien" in this <u>Section 11.01(a)</u> shall be understood to be subject to Permitted Collateral Liens, if any and the terms of the Intercreditor Agreement.

(b) <u>Additional Collateral</u>. The Company shall, and shall cause every other Collateral Grantor to, from time to time take the actions required by $\underbrace{Section 4.26}$.

Section 11.02 [Reserved].

Section 11.03 <u>Releases of Collateral</u>. The Notes Obligations will no longer be required to be secured by Liens on Collateral, and subject to the terms of the Intercreditor Agreement, the Liens securing the Notes Obligations will be released:

(1) in whole, upon the full and final payment and performance of all Notes Obligations;

- (2) in part, with respect to any asset constituting Collateral, if such Collateral is sold or otherwise disposed of to a Person that is not (either before or after giving effect to such transaction) the Company or a Restricted Subsidiary in a transaction that is not prohibited by this Indenture, subject to compliance with Section 4.10 (other than the provisions thereof relating to the future use of the proceeds of such sale or other disposition), and the Company has delivered to the Collateral Agent and the Trustee an Officers' Certificate and Opinion of Counsel (with customary assumptions and qualifications for such types of opinion) certifying to such effect; provided that (i) pending its application or use in compliance with Section 4.10, any cash received from a disposition of Collateral shall be deposited in a deposit account controlled by the Collateral Agent and held as Collateral and, from such deposit account, the applicable Collateral Grantor may withdraw funds to deploy the proceeds of an Asset Sale in compliance with Section 4.10, and (ii) to the extent that any Collateral is sold or otherwise disposed of in accordance with the terms of Section 4.10, the non-cash consideration received shall be pledged as Collateral under the Collateral Agreements contemporaneously with such sale, in accordance with the requirements of this Indenture and the Collateral Agreements;
- (3) in whole, upon Legal Defeasance pursuant to <u>Section 8.02</u>, Covenant Defeasance pursuant to <u>Section 8.03</u> or Discharge pursuant to <u>Section 8.08</u>:
- (4) in part, with respect to the assets of any Subsidiary Guarantor that is released from its Subsidiary Guarantee in accordance with Section 10.02;
 - (5) in whole or in part, with the consent of the requisite Holders as provided in Section 9.02; or
 - (6) in whole or in part, as provided in the Intercreditor Agreement or the Collateral Agreements.

Section 11.04 <u>Release Documentation</u>. Upon compliance with the conditions to release of all or any portion of the Collateral set forth in <u>Section 11.03</u>, the Collateral Agent and the Trustee shall forthwith take all necessary action (at the request of and the expense of the Company, accompanied by an Officers' Certificate and Opinion of Counsel that the conditions precedent to such release have been satisfied) to release and re-convey to the applicable Collateral Grantor the applicable portion of the Collateral that is authorized to be released pursuant to <u>Section 11.03</u>, and shall deliver such Collateral in its possession to the applicable Collateral Grantor, including, without limitation, executing and delivering releases and satisfactions wherever required.

Section 11.05 Possession and Use of Collateral; No Impairment of the Security Interests.

(a) So long as no Event of Default has occurred and is continuing, and subject to the terms of this Indenture, the Collateral Agreements and the Intercreditor Agreement, each Collateral Grantor will be entitled to freely operate the property and assets constituting the Collateral pledged by it and to receive, invest and dispose of all cash dividends, principal, interest and other payments made upon or with respect to the Collateral pledged by it and to exercise any voting and other consensual rights pertaining to the Collateral pledged by it.

- (b) The Company shall not, and shall not permit any other Collateral Grantor to, take any action, or knowingly omit to take any action, which action or omission would have the result of materially impairing the validity, perfection or priority of the security interests in the Collateral created by the Collateral Agreements, (except as expressly set forth in this Indenture, the Intercreditor Agreement or the Collateral Agreements, including any action that would result in a Permitted Collateral Lien).
- (c) Neither the Company nor any Collateral Grantor will take any action or otherwise attempt to enforce any claim or maritime lien held by it against any Collateral Vessel that has priority over any claim or Lien of the Collateral Agent in respect of such Collateral Vessel, including any claims or Liens arising under the Vessel Mortgages.
- (d) Subject to any conditions in the Collateral Agreements and the Intercreditor Agreement (including any requirement for affirmative election by the Collateral Agent, at the written direction of the Controlling Party), upon the occurrence and during the continuance of an Event of Default:
 - (1) all rights of each Collateral Grantor to exercise such voting or other consensual rights pertaining to its Collateral will cease, and all such rights will become vested in the Collateral Agent, which, to the extent permitted by law, will have the sole right to exercise such voting and other consensual rights in accordance with the Collateral Agreements;
 - (2) all rights of each Collateral Grantor to receive all cash dividends, principal, interest and other payments made upon or with respect to its Collateral will cease and such cash dividends, principal, interest and other payments will be paid to the Collateral Agent in accordance with the terms of the Collateral Agreements; and
 - (3) the Collateral Agent may sell the Collateral or any part of the Collateral in accordance with the terms of the Collateral Agreements and the Intercreditor Agreement.

The Collateral Agent will distribute all funds received by it in accordance with the provisions of the Intercreditor Agreement and the Collateral Agreements, and the Trustee will distribute all funds received by it from the Collateral Agent for the benefit of the Trustee and the Holders of the Notes in accordance with the provisions of this Indenture.

The Collateral Agent will be permitted to release all or any portion of the Collateral from the Liens created by the Collateral Agreements and foreclose on the Collateral following an Event of Default, in each case in accordance with the applicable provisions of the Collateral Agreements.

Section 11.06 Collateral Agent.

The Trustee and each of the Holders by acceptance of the Notes hereby authorize the appointment of the Collateral Agent as the Trustee's and the Holders' collateral agent under

the Collateral Agreements, and the Trustee and each of the Holders by acceptance of the Notes hereby irrevocably authorize the Collateral Agent to take such action on their behalf under the provisions of the Collateral Agreements and the Intercreditor Agreement and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Indenture, the Intercreditor Agreement and the Collateral Agreements, together with such powers as are reasonably incidental thereto.

The Collateral Agent may resign and its successor appointed in accordance with the terms of the Intercreditor Agreement.

The Trustee is authorized and directed by the Holders and the Holders by acquiring the Notes are deemed to have authorized the Trustee, as applicable, to (i) enter into the Intercreditor Agreement, (ii) bind the Holders on the terms as set forth in the Intercreditor Agreement, (iii) perform and observe its obligations and exercise its rights and powers under the Intercreditor Agreement, including entering into amendments permitted by the terms of this Indenture, the Intercreditor Agreement or the Collateral Agreements and (iv) cause the Collateral Agent to enter into and perform its obligations under the Collateral Agreements. The Collateral Agent is authorized and directed by the Trustee and the Holders and the Holders by acquiring the Notes are deemed to have authorized the Collateral Agent, to (i) enter into the Collateral Agreements to which it is a party, (ii) bind the Trustee and the Holders on the terms as set forth in such Collateral Agreements and (iii) perform and observe its obligations and exercise its rights and powers under such Collateral Agreements, including entering into amendments permitted by the terms of this Indenture or the Collateral Agreements. Each Holder, by its acceptance of a Note, is deemed to have consented and agreed to the terms of the Intercreditor Agreement and each Collateral Agreement, as originally in effect and as amended, restated, replaced, supplemented or modified from time to time in accordance with its terms or the terms of this Indenture. Each of the Trustee and the Holders by acquiring the Notes is hereby deemed to (i) agree that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and (ii) acknowledge that it has received a copy of the Intercreditor Agreement and that the exercise of certain of the Trustee's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement. Each of the Holders by acquiring the Notes is hereby deemed to direct the Trustee to appoint the Collateral Agent as its mortgagee trustee to receive, hold, administer and enforce the Mortgages covering the Collateral Vessels, as contemplated under the Intercreditor Agreement. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS INDENTURE, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS INDENTURE AND THE INTERCREDITOR AGREEMENT, THE INTERCREDITOR AGREEMENT SHALL CONTROL.

The Collateral Agent shall have no obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by the Company or any of the Collateral Grantors or is cared for, protected or insured or has been encumbered, or that the Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all of the Collateral Grantor's property constituting Collateral intended to be subject to the Lien and security interest of the Collateral Agreements has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto.

The grant of permissive rights or powers to the Collateral Agent shall not be construed to impose duties to act. For the avoidance of doubt, nothing herein shall require the Collateral Agent to file financing statements or continuation statements, or be responsible for maintaining the security interests purported to be created by the Collateral Agreements and such responsibility shall be solely that of the Company.

Notwithstanding anything else to the contrary herein, the Collateral Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except as required by the Intercreditor Agreement.

Section 11.07 <u>Purchaser Protected</u>. No purchaser or grantee of any property or rights purporting to be released from the Liens in favor of the Collateral Agent shall be bound to ascertain the authority of the Collateral Agent or Trustee to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority so long as the conditions set forth in <u>Section 11.03</u> have been satisfied.

Section 11.08 [Reserved].

Section 11.09 <u>Authorization of Receipt of Funds by the Trustee Under the Collateral Agreements</u>. The Trustee is authorized to receive any funds for the benefit of Holders distributed under the Collateral Agreements and to apply such funds as provided in <u>Section 6.10</u>.

Section 11.10 <u>Powers Exercisable by Receiver or Trustee</u>. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this <u>Article 11</u> upon the Company or any Collateral Grantor, as applicable, with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Company or any Collateral Grantor, as applicable, or of any officer or officers thereof required by the provisions of this <u>Article 11</u>.

Section 11.11 <u>Compensation and Indemnification</u>. The Collateral Agent shall be entitled to the compensation and indemnification set forth in <u>Section 7.06</u> (with the references to the Trustee therein being deemed to refer to the Collateral Agent).

ARTICLE 12 MISCELLANEOUS

Section 12.01 Notices.

All notices and other communications by the Company, any Guarantor or the Trustee to the other parties hereto shall be duly given if in writing in the English language and delivered in person or mailed by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to their respective addresses set forth below:

If to the Company or any Guarantor:

Pacific Drilling S.A. 37 rue d'anvers L-1130 Luxembourg Attention: John Boots

Email: j.boots@pacificdrilling.com

Facsimile: 352 278 58 140 Telephone: 352 278 58 139

with a copy to:

Pacific Drilling Services, Inc. 3050 Post Oak Blvd., Suite 1500 Houston, Texas 77056

Attention: Treasurer Email: jboots@pacificdrilling.com

Facsimile: (713) 583-5777 Telephone: (713) 334-6662

If to the Trustee:

Deutsche Bank Trust Company Americas
Trust & Agency Services
60 Wall Street, MS NYC60-2710
New York, New York 10005
Attention: Corporates Team Deal Manager Register

Attention: Corporates Team Deal Manager - Pacific Drilling S.A.

Facsimile: (732) 578-4635

with a copy to (which shall not constitute notice):

Deutsche Bank Trust Company Americas c/o Deutsche Bank National Trust Company Trust & Agency Services 100 Plaza One, Mailstop JCY03-0699 Jersey City, New Jersey 07311

Attention: Corporates Team Deal Manager – Pacific Drilling S.A.

Facsimile: (732) 578-4635

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given (a) at the time delivered by hand, if personally delivered, (b) five Business Days after being deposited in the mail, postage prepaid, if mailed, (c) when receipt is acknowledged, if transmitted by facsimile, and (d) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery, in each case to the address shown above or to such other address or addresses as the Company, any Guarantor or the Trustee, by written notice to the other parties hereto, may designate from time to time.

Any notice or communication to a Holder shall be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the Register kept by the Registrar. All notices and communications to a Holder shall be deemed to have been duly given (a) five Business Days after being deposited in the mail, postage prepaid, if mailed, and (b) the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery, in each case to the address of the Holder shown on the Register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If either the Company or any Guarantor mails a notice or communication to any Holder, it shall mail a copy to the Trustee and each Agent at the same time.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by any Holder shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Notwithstanding anything to the contrary contained herein, as long as the Notes are in the form of a Global Note, notice to the Holders thereof may be made electronically in accordance with the applicable procedures of the Depositary.

Section 12.02 <u>Certificate and Opinion as to Conditions Precedent</u>.

Upon any request or application by the Company to the Trustee or any Agent to take any action or refrain from taking any action under this Indenture, the Trustee or such Agent shall be entitled to receive from the Company:

- (a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in <u>Section 12.03</u>) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and
- (b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in <u>Section 12.03</u>) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.03 <u>Statements Required in Certificate or Opinion</u>.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

- (a) a statement that the person making such certificate or opinion has read such condition or covenant;
- (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (c) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such condition or covenant has been satisfied; and
 - (d) a statement as to whether or not, in the opinion of such person, such condition or covenant has been satisfied.

Section 12.04 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 12.05 No Personal Liability of Directors, Officers, Employees and Stockholders.

No present, past or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or any Guarantor under this Indenture, the Notes, the Subsidiary Guarantees or the Collateral Agreements or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 12.06 Governing Law.

THIS INDENTURE, THE NOTES AND THE SUBSIDIARY GUARANTEES WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. Articles 86 through 94-8 (inclusive) of the Luxembourg law of 10 August 1915 concerning commercial companies, as amended, shall be expressly excluded.

Section 12.07 Prescription.

Claims against the Company in respect of the Notes shall become void unless presented for payment within a period of six years from the date on which a payment in respect thereof first becomes due.

Section 12.08 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company, the Company or their respective Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.09 Successors.

All agreements of the Company and the Guarantors in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee and the Collateral Agent in this Indenture shall bind their respective successors.

Section 12.10 <u>Severability</u>.

In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.11 Table of Contents, Headings, etc.

The Table of Contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 12.12 <u>Counterparts</u>.

The parties hereto may sign any number of copies of this Indenture. This Indenture may be signed in counterparts and by the different parties hereto in separate counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or portable document format (.pdf) transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signature of the parties hereto transmitted by facsimile or .pdf shall be deemed to be their original signatures for all purposes.

Section 12.13 Language of Notices, Etc.

Any request, demand, authorization, direction, notice, consent, waiver or Act required or permitted under this Indenture shall be in writing and in the English language, except that any published notice may be in an official language of the country of publication.

Section 12.14 U.S.A. PATRIOT Act.

The parties hereto acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act), all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Indenture agree that they will provide to the Trustee such information as it may request, from time to time, in order for the Trustee to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 12.15 <u>Force Majeure</u>.

Neither the Trustee nor any Agent shall incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Trustee or such Agent that prevents the Trustee or such Agent from performing such act or fulfilling such duty, obligation or responsibility hereunder (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire, facsimile or other wire or communication facility).

Section 12.16 <u>Foreign Sanction Regulations</u>.

The Company agrees to comply in all material respects with applicable foreign sanctions regulations, including but not limited to, those administered by the Office of Foreign Assets Control of the U.S. Treasury Department, it being understood that this covenant is for the benefit of the Trustee only, no Holder or other Person shall have rights under this covenant as a third party beneficiary, and any breach of this covenant shall not be the basis for a Default or Event of Default under Section 6.01.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed and delivered as of the date first set forth above.

C OMPANY:

P ACIFIC D RILLING S.A.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: Director

G UARANTORS:

P acific B ora L TD .

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

 \boldsymbol{P} acific \boldsymbol{M} istral \boldsymbol{L} TD .

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

P acific S cirocco L TD .

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

P ACIFIC S ANTA A NA S.à r.l.

By: /s/ Fred Vleghert

Name: Fred Vleghert

Title: Manager

 $P \; \mathsf{ACIFIC} \; D \; \mathsf{RILLING} \; L \; \mathsf{IMITED}$

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

Signature Page to Indenture

 \boldsymbol{P} acific \boldsymbol{I} nternational \boldsymbol{D} rilling \boldsymbol{W} est \boldsymbol{A} frica \boldsymbol{L} imited

By: /s/ Fred Vleghert
Name: Fred Vleghert
Title: Director

 \boldsymbol{P} acific \boldsymbol{S} anta \boldsymbol{A} na \boldsymbol{L} td .

By: /s/ Fred Vleghert
Name: Fred Vleghert
Title: Vice President

P ACIFIC D RILLSHIP S.à r.l.

By: /s/ Christian J. Beckett
Name: Christian J. Beckett

Title: Manager

 \boldsymbol{P} acific \boldsymbol{D} rilling , \boldsymbol{I} nc .

By: /s/ Christian J. Beckett
Name: Christian J. Beckett

Title: President

Signature Page to Indenture

T RUSTEE:

 \boldsymbol{D} eutsche \boldsymbol{B} ank \boldsymbol{T} rust \boldsymbol{C} ompany \boldsymbol{A} mericas

BY: DEUTSCHE BANK NATIONAL TRUST COMPANY

By: /s/ Rodney Gaughan

Name: Rodney Gaughan Title: Vice President

By: /s/ Linda Reale

Name: Linda Reale
Title: Vice President

Signature Page to Indenture

PROVISIONS RELATING TO NOTES

1. Definitions

1.1 Definitions.

For the purposes of this Appendix the following terms shall have the meanings indicated below:

- "Depository" means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depository institution hereinafter appointed by the Company.
- "Initial Purchasers" means (1) with respect to the Initial Notes, Goldman Sachs & Co., Citigroup Global Markets Inc., Deutsche Bank Securities Inc., Barclays Capital Inc., ABN AMRO Securities (USA) LLC, Credit Agricole Securities (USA) Inc., Scotia Capital (USA) Inc., Skandinaviska Enskilda Banken AB (publ.) and Standard Chartered Bank and (2) with respect to each issuance of Additional Notes, the Persons purchasing such Additional Notes under the related Purchase Agreement.
- "Notes Custodian" means the custodian with respect to a Global Note (as appointed by the Depository), or any successor Person thereto and shall initially be the Trustee.
- "Purchase Agreement" means (1) with respect to the Initial Notes, the Purchase Agreement dated May 17, 2013 among the Company, the Guarantors and the Initial Purchasers, and (2) with respect to each issuance of Additional Notes, the purchase agreement or underwriting agreement among the Company and the Persons purchasing or underwriting such Additional Notes.
 - "Transfer Restricted Securities" means Notes that bear or are required to bear the legend set forth in Section 2.3(b)(i) hereof.

1.2 Other Definitions.

<u>Term</u>	Defined in Section:
"Agent Members"	2.1(b)
"Global Note"	2.1(a)
"Regulation S"	2.1(a)
"Regulation S Notes"	2.1(a)
"Resale Restriction Termination Date"	2.3(b)
"Restricted Global Note"	2.1(a)
"Restricted Period"	2.1(b)
"Rule 144A"	2.1(a)
"Rule 144A Notes"	2.1(a)

[&]quot;Unrestricted Initial Notes" means any Initial Notes that are not Transfer Restricted Securities.

2.1 The Notes.

- (a) Form and Dating. Initial Notes offered and sold to QIBs in reliance on Rule 144A ("Rule 144A Notes") under the U.S. Securities Act ("Rule 144A") or in reliance on Regulation S ("Regulation S Notes") under the U.S. Securities Act ("Regulation S"), in each case as provided in a Purchase Agreement, shall be issued initially in the form of one or more permanent global Notes in definitive, fully registered form without interest coupons with the global Notes legend and Restricted Notes Legend set forth in Exhibit 1 hereto (each, unless and until becoming an Unrestricted Initial Note in accordance with Section 2.3(b)(ii) below, a "Restricted Global Note"), which shall be deposited on behalf of the purchasers of the Initial Notes represented thereby with the Trustee, as Notes Custodian for the Depository (or with such other custodian as the Depository may direct), and registered in the name of the Depository or a nominee of the Depository, duly executed by the Company and authenticated by the Trustee as hereinafter provided. Beneficial interests in a Restricted Global Note representing Initial Notes sold in reliance on either Rule 144A or Regulation S may be held through Euroclear or Clearstream, as indirect participants in the Depository. The aggregate principal amount of the Global Notes may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depository or its nominee as hereinafter provided. Unrestricted Initial Notes issued in global form and Restricted Global Notes are sometimes referred to in this Appendix as "Global Notes".
 - (b) <u>Book-Entry Provisions</u>. This Section 2.1(b) shall apply only to a Global Note deposited with or on behalf of the Depository.

The Company shall execute and the Trustee shall, in accordance with this Section 2.1(b), authenticate and deliver initially one or more Global Notes that (a) shall be registered in the name of the Depository for such Global Note or Global Notes or the nominee of such Depository and (b) shall be delivered by the Trustee to such Depository or pursuant to such Depository's instructions or held by the Trustee as custodian for the Depository. If such Global Notes are Restricted Global Notes, then separate Global Notes shall be issued to represent Rule 144A Notes and Regulation S Notes so long as required by law or the Depository.

Members of, or participants in, the Depository ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or by the Trustee as the custodian of the Depository or under such Global Note, and the Company, the Trustee and any agent of the Company or the Trustee shall be entitled to treat the Depository as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and its Agent Members, the operation of customary practices of such Depository governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

Prior to the expiration of the period through and including the 40th day after the later of the commencement of the offering of any Initial Notes and the closing of such offering (such period, the "Restricted Period"), beneficial interests in the Restricted Global Note representing Regulation S Notes may be exchanged for beneficial interests in the Rule 144A Restricted Global Note representing Rule 144A Notes only if (i) such exchange occurs in connection with a transfer of the Notes pursuant to Rule 144A, (ii) the transferor first delivers to the Trustee a written certificate (in the form provided in Exhibit 1 hereto) to the effect that the Notes are being transferred to a Person who the transferor reasonably believes to be a QIB within the meaning of Rule 144A and is purchasing for its own account or the account of a QIB, in each case in a transaction meeting the requirements of Rule 144A, and (iii) the transfer is in accordance with all applicable securities laws of the states of the United States and other jurisdictions. After the expiration of the Restricted Period, such certification requirements shall not apply to such transfers of beneficial interests in a Restricted Global Note representing Regulation S Notes.

Beneficial interests in a Restricted Global Note representing Rule 144A Notes may be transferred to a Person who takes delivery in the form of an interest in the Restricted Global Note representing Regulation S Notes, whether before or after the expiration of the Restricted Period, only if the transferor first delivers to the Trustee a written certificate (in the form provided in Exhibit 1 hereto) to the effect that such transfer is being made in accordance with Rule 903 or 904 of Regulation S or Rule 144 (if available).

- (c) <u>Certificated Notes</u>. Except as provided in Section 2.4, owners of beneficial interests in Restricted Global Notes shall not be entitled to receive physical delivery of certificated Notes. Certificated Notes shall not be exchangeable for beneficial interests in Global Notes.
- 2.2 <u>Authentication</u>. The Trustee shall, upon its receipt of an authentication order from the Company, authenticate and deliver: (1) on the Issue Date, Notes in an aggregate principal amount of \$750,000,000 and (2) at any time or from time to time, any Additional Notes for an original issue in an aggregate principal amount specified in the written order of the Company pursuant to Section 2.02 of the Indenture. Such order (x) shall specify (i) the aggregate principal amount of the Notes to be authenticated, the date on which such Notes are to be authenticated and to whom such Notes shall be registered and delivered; (ii) whether or not such Notes constitute Additional Notes; and (iii) if such Notes constitute Additional Notes, the issue price, the issue date (and the corresponding date from which interest shall accrue thereon and the first interest payment date therefor) and the CUSIP number and any corresponding ISIN of such Additional Notes and (y) in the case of any issuance of Additional Notes pursuant to Section 2.14 of the Indenture, shall certify that such issuance is in compliance with Section 4.09 of the Indenture. The Trustee shall also authenticate and deliver Notes at the times and in the manner specified in Sections 2.3 and 2.4 hereof and in Sections 2.06, 2.07, 2.10, 3.06, 4.10, 4.15 or 9.05 of the Indenture.

2.3 Transfer and Exchange.

(a) <u>Transfer and Exchange of Global Notes</u>. (i) The transfer and exchange of Global Notes or beneficial interests therein shall be effected through the Depository, in accordance with the Indenture (including applicable restrictions on transfer set forth herein, if any) and the

procedures of the Depository therefor. A transferor of a beneficial interest in a Global Note shall deliver to the Registrar a written order given in accordance with the Depository's procedures containing information regarding the participant account of the Depository to be credited with a beneficial interest in the Global Note. The Registrar shall, in accordance with such instructions instruct the Depository to credit to the account of the Person specified in such instructions a beneficial interest in the Global Note and to debit the account of the Person making the transfer the beneficial interest in the Global Note being transferred.

(ii) Notwithstanding any other provisions of this Appendix, a Global Note may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(b) Legend.

(i) Except as permitted by the following paragraphs (ii), (iii), (iv) and (v), each Note certificate evidencing the Restricted Global Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION, THE HOLDER OF THIS NOTE, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED NOTES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS, IN THE CASE OF RULE 144A NOTES: ONE YEAR AND IN THE CASE OF REGULATION S NOTES: 40 DAYS, AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF SUCH NOTE (OR ANY PREDECESSOR OF SUCH NOTE), ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE U.S. SECURITIES ACT ("RULE 144A"), TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES THAT OCCUR OUTSIDE THE UNITED STATES IN COMPLIANCE WITH REGULATION S UNDER THE U.S. SECURITIES ACT, (E) PURSUANT TO RULE 144 OF THE

SECURITIES ACT OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (F) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AS TO ANY NOTE EVIDENCED HEREBY UPON DELIVERY TO THE TRUSTEE BY THE COMPANY OR THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE. IN THE CASE OF REGULATION S NOTES: BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION UNDER THE U.S. SECURITIES ACT.

(ii) The Company, acting in its discretion, may remove the legend set forth in paragraph (i) above from any Transfer Restricted Security at any time on or after the Resale Restriction Termination Date applicable to such Transfer Restricted Security. Without limiting the generality of the preceding sentence, the Company may effect such removal by issuing and delivering, in exchange for such Transfer Restricted Security, an Unrestricted Initial Note without such legend, registered to the same Holder and in an equal principal amount, and upon receipt by the Trustee of a written order of the Company stating that the Resale Restriction Termination Date applicable to such Transfer Restricted Security has occurred and requesting the authentication and delivery of an Unrestricted Initial Note in exchange therefor (which order shall not be required to be accompanied by any Opinion of Counsel or any other document) given at least three Business Days in advance of the proposed date of exchange specified therein (which shall be no earlier than such Resale Restriction Termination Date), the Trustee shall authenticate and deliver such Unrestricted Initial Note to the Depository or pursuant to such Depository's instructions or hold such Note as Note Custodian for the Depository and shall request the Depository to, or, if the Trustee is Note Custodian of such Transfer Restricted Security, shall itself, surrender such Transfer Restricted Security in exchange for such Unrestricted Initial Note without such legend and thereupon cancel such Transfer Restricted Security so surrendered, all as directed in such order. For purposes of determining whether the Resale Restriction Termination Date has occurred with respect to any Notes evidenced by a Transfer Restricted Security or delivering any order pursuant to this Section 2.3(b)(ii) with respect to such Notes, (i) only those Notes which a Principal Officer of the Company actually knows (after reasonable inquiry) to be or to have been owned by an Affiliate of the Company shall be deemed to be or to have been, respectively, owned by an Affiliate of the Company; and (ii) "Principal Officer" means the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company.

For purposes of this Section 2.3(b)(ii), all provisions relating to the removal of the legend set forth in paragraph (i) above shall relate, if the Resale Restriction Termination Date has occurred only with respect to a portion of the Notes evidenced by a Transfer Restricted Security, to such portion of the Notes so evidenced as to which the Resale Restriction Termination Date has occurred.

Each holder of any Note evidenced by any Restricted Global Note, by its acceptance thereof, (A) authorizes and consents to, (B) appoints the Company as its agent for the sole purpose of delivering such electronic messages, executing and delivering such instruments and taking such other actions, on such holder's behalf, as the Depository or the Trustee may require to effect, and (C) upon the request of the Company, agrees to deliver such electronic messages, execute and deliver such instruments and take such other actions as the Depository or the Trustee may require, or as shall otherwise be necessary to effect, the removal of the legend set forth in Section 2.3(b)(i) (including by means of the exchange of all or the portion of such Restricted Global Note evidencing such Note for a certificate evidencing such Note that does not bear such legend) at any time after the Resale Restriction Termination Date.

- (iii) Upon any sale or transfer of a Transfer Restricted Security (including any Transfer Restricted Security represented by a Restricted Global Note) pursuant to Rule 144 under the Securities Act, the Registrar shall permit the transferee thereof to exchange such Transfer Restricted Security for a Note that does not bear the legend set forth above and rescind any restriction on the transfer of such Transfer Restricted Security, if the transferor thereof certifies in writing to the Registrar that such sale or transfer was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the Note).
- (c) <u>Cancellation or Adjustment of Global Note</u>. At such time as all beneficial interests in a Global Note have either been exchanged for certificated Notes, redeemed, purchased or canceled, such Global Note shall be returned to the Trustee for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for certificated Notes, redeemed, purchased or canceled, or if any certificated Note is exchanged for such a beneficial interest, the principal amount of Notes represented by such Global Note shall be reduced or increased, as appropriate, and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction or increase, as the case may be.

(d) Obligations with Respect to Transfers and Exchanges of Notes.

- (i) To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall, upon its receipt of an authentication order from the Company, authenticate certificated Notes and Global Notes at the Registrar's request.
- (ii) No service charge shall be made for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax, assessments or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charge payable upon any exchange or transfer pursuant to Sections 3.06, 4.10, 4.15 and 9.05 of the Indenture).

- (iii) The Registrar shall not be required to register the transfer of or exchange of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, it need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.
- (iv) Prior to the due presentation for registration of transfer of any Note, the Company, the Guarantors, the Trustee, the Paying Agent or the Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of, premium, if any, interest, if any, on, or Additional Amounts, if any, on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Company, the Guarantors, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.
- (v) All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange. Accordingly, for purposes of clause (3) of Section 4.09(b) of this Indenture, "the Notes (other than Additional Notes) and the related Subsidiary Guarantees to be issued on the Issue Date" shall be deemed to refer to and include any Notes issued in exchange for, or upon registration of transfer of, or in lieu of, any such Notes (or any predecessor Notes thereof) pursuant to this Indenture.
- (e) No Obligation of the Trustee. The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in the Depository or other Person with respect to the accuracy of the records of the Depository or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than the Depository) of any notice (including any notice of optional redemption) or the payment of any amount, under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders under the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be fully protected in relying upon information furnished by the Depository with respect to its members, participants and any beneficial owners.
- (ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under the Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depository participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of the Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

2.4 Certificated Notes.

- (a) A Global Note deposited with the Depository or with the Trustee as custodian for the Depository pursuant to Section 2.1 shall be transferred to the beneficial owners thereof in the form of certificated Notes in an aggregate principal amount equal to the principal amount of such Global Note, in exchange for such Global Note, only if such transfer complies with Section 2.3 and (i) the Depository notifies the Company that it is unwilling or unable to continue as Depository for such Global Note or if at any time such Depository ceases to be a "clearing agency" registered under the Exchange Act and in either case the Company fails to appoint a successor depositary within 90 days, (ii) the Company, at its option, but subject to the Depository's requirements, notifies the Trustee in writing that it elects to cause the issuance of the Certificated Notes, or (iii) an Event of Default has occurred and is continuing and the Depository notifies the Trustee of its decision to exchange the Global Notes for Certificated Notes.
- (b) Any Global Note that is transferable to the beneficial owners thereof pursuant to this Section shall be surrendered by the Depository or the Notes Custodian to the Trustee located at its Corporate Trust Office to be so transferred, in whole or from time to time in part, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Note, an equal aggregate principal amount of certificated Notes of authorized denominations. Any portion of a Global Note transferred pursuant to this Section shall be executed, authenticated and delivered only in denominations equal to \$50,000 or an integral multiple of \$1,000 in excess thereof, and registered in such names as the Depository shall direct. Any certificated Note delivered in exchange for an interest in a Global Note shall, except as otherwise provided by Section 2.3(b), bear the Restricted Notes Legend set forth in Exhibit 1 hereto.
- (c) Subject to the provisions of Section 2.4(b), the Holder of a Global Note shall be entitled to grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under the Indenture or the Notes.
- (d) In the event of the occurrence of any of the events specified in Section 2.4(a), the Company shall promptly make available to the Trustee a reasonable supply of certificated Notes in definitive, fully registered form without interest coupons.

EXHIBIT 1 TO RULE 144A/REGULATION S APPENDIX

[FORM OF FACE OF NOTE]

[Global Notes Legend]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

[Restricted Notes Legend]

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT") OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS NOTE NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS NOTE, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED NOTES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH NOTE, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS, IN THE CASE OF RULE 144A NOTES: ONE YEAR AND IN THE CASE OF REGULATION S NOTES: 40 DAYS, AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF SUCH NOTE (OR ANY PREDECESSOR OF SUCH NOTE), ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE U.S. SECURITIES ACT, (C) FOR SO LONG AS THIS NOTE IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE U.S. SECURITIES ACT ("RULE 144A"),

TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES THAT OCCUR OUTSIDE THE UNITED STATES IN COMPLIANCE WITH REGULATION S UNDER THE U.S. SECURITIES ACT, (E) PURSUANT TO RULE 144 OF THE SECURITIES ACT OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE U.S. SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE TRUSTEE'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSE (F) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AS TO ANY NOTE EVIDENCED HEREBY UPON DELIVERY TO THE TRUSTEE BY THE COMPANY OR THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE. IN THE CASE OF REGULATION S NOTES: BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION UNDER THE U.S. SECURITIES ACT.

	144A CUSIP: 69419B AA3
	Regulation S ISIN: USL7257QAB07
	Regulation S CUSIP: L7257Q AB0
	Pacific Drilling S.A.
	5.375% Senior Secured Note due 2020
Pacific Drilling S.A., a Luxembour ssigns, the principal sum of	rg corporation under the form of a <i>société anonyme</i> , promises to pay to , or registered Dollars on June 1, 2020 [or such greater or lesser amount as may be indicated on Schedule A hereto]
Interest Payment Dates: June 1 and	December 1
Record Dates: May 15 and Novem	ber 15
Additional provisions of this Note	are set forth on the other side of this Note.
IN WITNESS WHEREOF, Pacific	Drilling S.A. has caused this instrument to be duly executed.
	P ACIFIC D RILLING S.A.
	By:
	Name: Title:
If this Note is a Global Note, add this	provision.

Principal Amount \$[144A ISIN: US69419BAA35

No. []

¹

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

D eutsche B ank T rust C ompany A mericas , as Trustee, certifies that this is one of the Notes referred to in the Indenture.

By: D eutsche B ank N ational T rust C ompany	
By:	
Authorized Signatory	
By:	
Authorized Signatory	
Dated: , 20	

[FORM OF REVERSE SIDE OF NOTE]

5.375% Senior Secured Note due 2020

Capitalized terms used herein but not defined shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

- 1. Interest . Pacific Drilling S.A., a Luxembourg corporation under the form of a société anonyme (the "Company"), promises to pay interest on the unpaid principal amount of this Note at 5.375% per annum. The Company will pay interest semi-annually in arrears on June 1 and December 1 of each year (each an "Interest Payment Date"), commencing December 1, 2013. In certain circumstances specified in the Indenture, the Company may be required to pay Additional Amounts with respect to the Notes. Whenever in this Note there is mentioned, in any context, the payment of amounts based upon the principal amount of this Note or of principal, interest or of any other amount payable under, or with respect to, this Note, such mention shall be deemed to include mention of the payment of Additional Amounts to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof. If any date for payment on the Notes falls on a day that is not a Business Day, such payment may be made on the next succeeding Business Day with the same force and effect as if made on the due date, and no additional interest will accrue solely as a result of such delayed payment. Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of original issuance; provided that if there is no existing Default or Event of Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date, except in the case of the original issuance of Notes, in which case interest shall accrue from the date of authentication. The Company shall pay (i) interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is equal to the then applicable interest rate on the Notes and (ii) interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest and Additional Amounts, if any, (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.
- 2. Method of Payment. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the May 15 or November 15 next preceding the Interest Payment Date, even if such Notes are cancelled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. Holders must surrender Notes to the Paying Agent to collect payments of principal and premium, if any, together with accrued and unpaid interest and Additional Amounts, if any, due at maturity. Any Notes in certificated form will be payable as to principal, premium, if any, interest, if any, and Additional Amounts, if any, at the office or agency of the Paying Agent and Registrar maintained for such purpose within the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders, and provided that payment by wire transfer of immediately available funds to an account in the United States will be required with respect to any amounts due on all Global

Notes and all other Notes the Holders of which shall have provided wire transfer instructions to the Company or the Paying Agent. Notwithstanding the foregoing, if this Note is a Global Note, payment may be made pursuant to the applicable procedures of the Depository as permitted in the Indenture. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

- 3. <u>Paying Agent and Registrar</u>. Initially, Deutsche Bank Trust Company Americas, the Trustee under the Indenture, will act as Paying Agent and Registrar at its corporate trust office at 60 Wall Street, Trust and Agency Services, 27th Floor, New York, New York 10005. The Company may appoint and change any Paying Agent or Registrar without notice to any Holder. Other than for purposes of effecting a redemption or an offer to purchase described in Sections 3.07, 3.08, 3.09, 4.10 and 4.15 of the Indenture or in connection with a Legal Defeasance, Covenant Defeasance or Discharge, the Company or any of its Subsidiaries may act in any such capacity.
- 4. <u>Indenture</u>. The Company issued the Notes under an Indenture dated as of June 3, 2013 ("*Indenture*") among the Company, the Guarantors and the Trustee. The Notes are subject to the terms of the Indenture, and Holders are referred to the Indenture for a statement of such terms. The Notes are senior secured obligations of the Company. The Company shall be entitled, subject to its compliance with Section 4.09 of the Indenture, to issue Additional Notes pursuant to Section 2.14 of the Indenture. In the event of a conflict between the Indenture and this Note, the terms of the Indenture shall control.

5. Optional Redemption.

- (a) At any time prior to June 1, 2016, the Company may, at its option, redeem up to 35% of the aggregate principal amount of Notes (including any Additional Notes) issued under the Indenture, at one time or from time to time, at a redemption price equal to 105.375% of the principal amount thereof, plus accrued and unpaid interest and Additional Amounts, if any, thereon to the applicable redemption date (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date), in an amount not greater than the net cash proceeds received by the Company of one or more Equity Offerings; *provided* that:
 - (1) at least 65% of the aggregate principal amount of Notes (including any Additional Notes) issued under the Indenture (excluding any Notes held by the Company and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and
 - (2) the redemption occurs within 120 days after the date of the closing of such Equity Offering.
- (b) At any time prior to June 1, 2016, the Company may, at its option, redeem the Notes, in whole or in part, at one time or from time to time, at a redemption price equal to 100% of the principal amount of the Notes received, plus the Applicable Premium as of, and accrued and unpaid interest and Additional Amounts, if any, to, the applicable redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.

- (c) At any time prior to June 1, 2016, not more than once in any 12-month period, the Company may redeem up to \$75.0 million in principal amount of the Notes at a redemption price equal to 103% of the aggregate principal amount thereof, plus accrued and unpaid interest and Additional Amounts, if any, to the redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.
- (d) On or after June 1, 2016, the Company may, at its option, redeem the Notes, in whole or in part, at one time or from time to time, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest and Additional Amounts, if any, on the Notes redeemed, to the applicable redemption date, subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on June 1 of the years indicated below:

YEAR	PERCENTAGE
YEAR 2016	104.031%
2017	102.688%
2018	101.344%
2019 and thereafter	100.000%

- (e) The Company may redeem the Notes, at its option, at any time in whole but not in part, at a redemption price equal to 100% of the outstanding principal amount of Notes, plus accrued and unpaid interest (if any) to the applicable redemption date, plus all Additional Amounts, if any, then due and which will become due as a result of the redemption or otherwise (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant interest payment date), in the event that the Company determines in good faith that the Company or any Guarantor has become or would become obligated to pay, on the next date on which any amount would be payable with respect to the Notes or the Subsidiary Guarantees, Additional Amounts, and such obligation cannot be avoided by taking reasonable measures available to the Company or the relevant Guarantor, as applicable (including making payment through a Paying Agent located in another jurisdiction), as a result of:
 - (1) a change in or an amendment to the laws or treaties (including any regulations or rulings promulgated thereunder) of any Specified Tax Jurisdiction affecting taxation, which change or amendment is announced or becomes effective on or after the Issue Date; or
 - (2) any change in or amendment to any official position of a taxing authority in any Specified Tax Jurisdiction regarding the application, administration or interpretation of such laws, treaties, regulations or rulings (including a holding, judgment or order by a court of competent jurisdiction), which change or amendment is announced or becomes effective on or after the Issue Date;

provided, however, that in the case of Additional Amounts required to be paid as a result of the Company or relevant Guarantor conducting business other than in the place of its incorporation or organization, such amendment or change must be announced or become effective on or after the date in which it begins to conduct business giving rise to the relevant withholding or deduction.

6. Notice of Redemption. Notice of optional redemption will be mailed at least 30 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address (except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a Legal Defeasance, Covenant Defeasance or Discharge). Notes and portions of Notes selected shall be in amounts of \$50,000 or whole multiples of \$1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed, the entire outstanding amount of Notes held by such Holder shall be redeemed. No Notes of \$50,000 or less can be redeemed in part. On and after the redemption date, interest ceases to accrue on the Notes or portions thereof called for redemption, subject to satisfaction of any conditions thereto.

7. Mandatory Redemption.

Except as set forth in this Paragraph 7 and in Paragraph 8 below, the Company shall not be required to make mandatory redemption or sinking fund payments with respect to the Notes or to repurchase the Notes at the option of the Holders.

Upon the occurrence or happening of any Event of Loss and the receipt of Event of Loss Proceeds in respect thereof, the Company shall be required (subject to the payment priority in favor of the holders of Revolving Credit Agreement Obligations set forth in the Intercreditor Agreement and the Revolving Credit Agreement) to redeem notes and other Pari Passu Obligations containing provisions similar to those set forth in the Indenture with respect to a redemption or repayment upon an Event of Loss equal in aggregate principal amount to the Event of Loss Proceeds received in respect of such loss (rounded to the nearest \$1,000), upon the giving of prior notice to Holders and on the redemption date and for the redemption price set forth in Section 3.08 of the Indenture.

8. Repurchase at Option of Holder.

(a) If a Change of Control occurs, the Company will be required to make an offer (a "Change of Control Offer") to repurchase all or any part (equal to \$50,000 or an integral multiple of \$1,000 in excess thereof) of each Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest and Additional Amounts, if any, to the date of purchase (the "Change of Control Payment Date"), subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date. Within 30 days following a Change of Control, the Company shall mail a notice of the Change of Control Offer to each Holder and the Trustee and the Paying Agent describing the transaction or transactions that constitutes the Change of Control and setting forth the procedures governing the Change of Control Offer as required by Section 4.15 of the Indenture.

- (b) If the Company or any Restricted Subsidiary consummates an Asset Sale, within 10 Business Days of each date on which the aggregate amount of Excess Proceeds exceeds \$25.0 million, the Company may be required to make an Asset Sale Offer in accordance with the Section 3.09 and 4.10 Indenture.
- 9. <u>Guarantees</u>. The payment by the Company of the principal of, and premium, if any, interest, if any, on, or Additional Amounts, if any, on, the Notes is absolutely and unconditionally guaranteed on a joint and several basis by each of the Guarantors, as primary obligor and not merely as a surety, to the extent set forth in the Indenture.
- 10. <u>Denominations, Transfer, Exchange</u>. The Notes are in registered form without coupons in denominations of \$50,000 and integral multiples of \$1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements and transfer documents, and the Company may require a Holder to pay any taxes due on transfer or exchange. The Registrar need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company and the Registrar need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed.
 - 11. <u>Persons Deemed Owners</u>. The registered Holder of a Note may be treated as its owner for all purposes.
- 12. <u>Amendment, Supplement and Waiver</u>. Subject to certain exceptions, the Indenture, the Notes and the Collateral Agreements may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange for, the Notes), and any existing Default or Event of Default or compliance with any provision of the Indenture, the Notes or the Collateral Agreements may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange for, Notes). Without the consent of any Holder of, the Indenture, the Notes and the Collateral Agreements may be amended or supplemented with respect to certain matters specified in the Indenture.
- 13. <u>Defaults and Remedies</u>. If any Event of Default occurs and is continuing, the Trustee, by notice to the Company, or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes, by notice to the Company and the Trustee, may (and the Trustee will, if directed by the Holders of at least 25% in aggregate principal amount of the then outstanding Notes) declare all the Notes to be due and payable immediately. Notwithstanding the preceding, in the case of an Event of Default arising from such events of bankruptcy, insolvency or reorganization described in Section 6.01(i) or 6.01(j) of the Indenture with respect to the Company or a Guarantor, all outstanding Notes shall become due and payable immediately without further action or notice. Holders may not enforce the Indenture, the Notes or the Collateral Agreements except as provided in the Indenture. Subject to certain limitations, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power conferred on it with respect to the Notes. The

Trustee may withhold from Holder notice of any continuing Default or Event of Default if it determines that withholding notice is in their interest, except a Default or Event of Default relating to the payment of principal of, or interest or premium, if any, on, the Notes. The Holders of a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may, on behalf of the Holders of all the Notes, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Indenture, except as provided in the Indenture. The Company is required to deliver to the Trustee annually a statement regarding compliance with the Indenture, and within 10 Business Days of any of its Officers or any of the Company's Officers becoming aware of any Default or Event of Default, the Company is required to deliver to the Trustee a statement specifying such Default or Event of Default.

- 14. <u>Defeasance and Discharge</u>. The Notes are subject to defeasance and discharge upon the terms and conditions specified in the Indenture.
- 15. No Recourse Against Others. No present, past or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or any Guarantor under the Notes, the Indenture, the Subsidiary Guarantees or the Collateral Agreements or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.
- 16. <u>Collateral Agreements</u>. The obligations of the Company and the Guarantors under the Indenture, the Notes and the Subsidiary Guarantees and the other Pari Passu Obligations will be secured by a Lien granted to the Collateral Agent the Collateral, subject to the terms of the Intercreditor Agreement.
- 17. <u>Authentication</u>. This Note shall not be valid until authenticated by the manual signature of an authorized signatory of the Trustee or an authenticating agent.
- 18. <u>Abbreviations</u>. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).
- 19. Removal of Restricted Notes Legend. Each Holder of any Note evidenced by any Restricted Global Note, by its acceptance thereof, (A) authorizes and consents to, (B) appoints the Company as its agent for the sole purpose of delivering such electronic messages, executing and delivering such instruments and taking such other actions, on such Holder's behalf, as the Depository or the Trustee may require to effect, and (C) upon the request of the Company, agrees to deliver such electronic messages, execute and deliver such instruments and take such other actions as the Depository or the Trustee may require, or as shall otherwise be necessary to effect, the removal of the Restricted Notes Legend set forth on the face of such Note (including by means of the exchange of all or the portion of such Restricted Global Note evidencing such Note for a certificate evidencing such Note that does not bear such Restricted Notes Legend) at any time after the Resale Restriction Termination Date.

- 20. <u>CUSIP and ISIN Numbers</u>. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers and corresponding ISIN numbers to be printed on the Notes and the Trustee may use CUSIP numbers and corresponding ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.
- 21. <u>Governing Law</u>. THE INDENTURE AND THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.
- 22. <u>Successors</u>. In the event a successor entity assumes all the obligations of its predecessor under the Notes and the Indenture, in accordance with the terms thereof, the predecessor entity will be released from all such obligations.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Pacific Drilling	S.A.	
[]	
[]	
Attention: []
Facsimile: []

ASSIGNMENT FORM

Тоа	ssign tł	nis Note, fill in the form below:
I or	we assi	gn and transfer this Note to
		(Print or type assignee's name, address and zip code)
		(Insert assignee's soc. sec. or tax I.D. No.)
and irrevo	cably a	ppointagent to transfer this Note on the books of the Company. The agent may substitute another to act for
Date:		Your Signature:
		Sign exactly as your name appears on the other side of this Note.
Signatures membersh	must b	be guaranteed) be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include articipation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as
		[Include the following only if the Restricted Notes Legend is included hereon]
issuance o case of Re	f such l gulatio	th any transfer of any of the Notes evidenced by this certificate occurring prior to one year after the later of the date of original Notes and the last date, if any, on which such Notes were owned by the Company or any Affiliate of the Company (or, in the n S Notes, prior to the expiration of the Restricted Period), the undersigned confirms that such Notes are being transferred in heir terms:
СНЕСК С	NE BO	OX BELOW
(1)		to the Company; or
(2)		pursuant to a registration statement that has been declared effective under the Securities Act of 1933; or
		Exhibit 1 to App 12

(3)		to a person who the undersigned reasonably believes is a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933) that is purchasing for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933; or			
(4)		pursuant to offers and sales that occur outside the United States in compliance with Regulation S under the Securities Act of 1933; or			
(5)		pursuant to Rule 144 under the Securities Act of 1933; or			
(6)		pursuant to another available exemption from the registration requirements of the Securities Act of 1933.			
Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered holder thereof; <u>provided</u> , <u>however</u> , that if box (4) or (6) is checked, the Trustee shall be entitled to require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Company has reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933.					
		Signature			

	-	001 FRE		-	DITE	~~~ .	~~~	***	•	A D O T III	T (2)	CLIECTIED
TO	BE	COMPL	ETED	BY	PUR	CHA	SER	IF (3)	ABOVE	IS	CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company and any Guarantors as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated:	
	Notice: To be executed by an executive officer

	OPTIO	ON OF HOLDER TO F	ELECT PURCHASE
If you want to elect to have this N	Note purchased	by the Company pursua	ant to Section 4.10 or 4.15 of the Indenture, check the box below:
Section 4.10		Section 4.15	
.	Your Signatur	re	
			(Sign exactly as your name appears on the other side of this Note
	Soc. Sec. or	Γax Identification No.:	
ature Guarantee: (signature must b	e guaranteed)		
	Section 4.10 If you want to elect to have only the amount (in minimum denomine:	If you want to elect to have this Note purchased Section 4.10 If you want to elect to have only part of this Note the amount (in minimum denomination of \$50,000 etc.) Your Signature Soc. Sec. or 7	If you want to elect to have only part of this Note purchased by the Cone the amount (in minimum denomination of \$50,000 or integral multiples : Your Signature Soc. Sec. or Tax Identification No.:

Signatures must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program ("STAMP") or such other "signature guarantee program" as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

[TO BE ATTACHED TO GLOBAL NOTE]

SCHEDULE A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

			Principal Amount of this	
	Amount of	Amount of		Signature of
	decrease in	increase in	Global Note	authorized
	Principal	Principal	following such	officer of Trustee
	Amount of this	Amount of this		
			decrease or	or Notes
Date	Global Note	Global Note	increase	Custodian

ANNEX A

PA	CIFIC	DRIL	LING	SA

and

the Guarantors named herein

5.375% SENIOR SECURED NOTES DUE 2020

FORM OF SUPPLEMENTAL INDENTURE

DATED AS OF

DEUTSCHE BANK TRUST COMPANY AMERICAS,

As Trustee

This SUPPLEMENTAL INDENTURE, dated as of , (this "Supplemental Indenture") is among Pacific Drilling S.A., (the "Company"), [] (the "Guaranteeing Subsidiary"), which is a subsidiary of the Company, each of the existing Guarantors (as defined in the Indenture referred to below) and Deutsche Bank Trust Company Americas, a New York banking corporation, as Trustee.

RECITALS

WHEREAS, the Company, the Guarantors and the Trustee entered into an Indenture, dated as of June 3, 2013 (as heretofore amended, supplemented or otherwise modified, the "*Indenture*"), providing for the issuance of the Company's 5.375% Senior Secured Notes due 2020 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall become a Guarantor (as defined in the Indenture);

WHEREAS, Section 9.01(i) of the Indenture provides that the Company, the Guarantors and the Trustee may amend or supplement the Indenture in order to add any additional Guarantor with respect to the Notes, without the consent of the Holders of the Notes; and

WHEREAS, all acts and things prescribed by the Indenture, by law and by the Certificate of Incorporation and the Bylaws (or comparable constituent documents) of the Company, of the Guarantors and of the Trustee necessary to make this Supplemental Indenture a valid instrument legally binding on the Company, the Guarantors and the Trustee, in accordance with its terms, have been duly done and performed;

NOW, THEREFORE, to comply with the provisions of the Indenture and in consideration of the above premises, the Company, the Guaranteeing Subsidiary, the other Guarantors and the Trustee covenant and agree for the equal and proportionate benefit of the respective Holders of the Notes as follows:

- Section 1. Capitalized Terms. Capitalized terms used herein without definition shall have the meanings ascribed to them in the Indenture.
- Section 2. <u>Relation to Indenture</u>. This Supplemental Indenture is supplemental to the Indenture and does and shall be deemed to form a part of, and shall be construed in connection with and as part of, the Indenture for any and all purposes.
- Section 3. <u>Effectiveness of Supplemental Indenture</u>. This Supplemental Indenture shall become effective immediately upon its execution and delivery by each of the Company, the Guaranteeing Subsidiary, the other Guarantors and the Trustee.
- Section 4. <u>Agreement to Guarantee</u>. The Guaranteeing Subsidiary hereby agrees, by its execution of this Supplemental Indenture, to be bound by the provisions of the Indenture applicable to Guarantors to the extent provided for and subject to the limitations therein, including Article 10 thereof.

Section 5. <u>Ratification of Obligations</u>. Except as specifically modified herein, the Indenture and the Notes are in all respects ratified and confirmed (*mutatis mutandis*) and shall remain in full force and effect in accordance with their terms.

Section 6. The Trustee . Except as otherwise expressly provided herein, no duties, responsibilities or liabilities are assumed, or shall be construed to be assumed, by the Trustee by reason of this Supplemental Indenture. This Supplemental Indenture is executed and accepted by the Trustee subject to all the terms and conditions set forth in the Indenture with the same force and effect as if those terms and conditions were repeated at length herein and made applicable to the Trustee with respect hereto. The Trustee makes no representation as to the validity or sufficiency of this Supplemental Indenture.

Section 7. <u>Governing Law</u>. THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

Section 8. <u>Counterparts</u>. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of such executed copies together shall represent the same agreement. Signature of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

[Signatures on following pages]

above.	caused this Supplemental Indenture to be duly executed, all as of the date first written
	C OMPANY:
	P ACIFIC D RILLING S.A.
	By: Name: Title:
	G UARANTEEING S UBSIDIARY:
	By: Name: Title:
	E XISTING G UARANTORS:
	[Insert signature blocks for each of the Guarantors existing at the time of execution of this Supplemental Indenture]
	T RUSTEE:
	D EUTSCHE B ANK T RUST C OMPANY A MERICAS
	BY: DEUTSCHE BANK NATIONAL TRUST COMPANY
	Ву:
	Name: Title:
	Ву:
	Name:
	Title:

TERM LOAN AGREEMENT

among

PACIFIC DRILLING S.A., as Borrower,

VARIOUS LENDERS

and

CITIBANK, N.A., as Administrative Agent,

CITIGROUP GLOBAL MARKETS, INC., GOLDMAN SACHS LENDING PARTNERS LLC, DEUTSCHE BANK SECURITIES INC.,

and

BARCLAYS BANK PLC, as Joint Lead Arrangers, Joint Bookrunners and Joint Syndication Agents

and

ABN AMRO SECURITIES (USA) LLC,
CREDIT AGRICOLE SECURITIES (USA) INC.,
ING FINANCIAL MARKETS LLC,
NORDEA BANK DANMARK A/S,
PARETO SECURITIES AS,
RS PLATOU MARKETS AS,
SCOTIA CAPITAL (USA) INC.,
SKANDINAVISKA ENSKILDA BANKEN AB (PUBL.),
STANDARD CHARTERED BANK,

and
NIBC BANK N.V.,
as Co-Documentation Agents and Co-Syndication Agents

Dated as of June 3, 2013

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TERM LOAN AGREEMENT, dated as of June 3, 2013, among PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), the Lenders party hereto from time to time, and CITIBANK, N.A., as Administrative Agent (in such capacity, the "Administrative Agent"). All capitalized terms used herein and defined in Section 1 are used herein as therein defined.

WITNESSETH:

WHEREAS, the Borrower has requested that the Lenders extend credit to the Borrower in the form of Loans on the Effective Date, in an aggregate principal amount equal to \$750,000,000; and

WHEREAS, subject to and upon the terms and conditions herein set forth, the Lenders are willing to make available to the Borrower the term loan facility provided for herein;

NOW, THEREFORE, IT IS AGREED:

SECTION 1. Definitions and Accounting Terms.

- 1.01 <u>Defined Terms</u>. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):
- <u>"2013 Indenture"</u> shall mean the Indenture dated as of the date hereof, among the Borrower, the Trustee and each Subsidiary Guarantor as guarantor thereunder (with such other guarantors as may thereafter be added from time to time).
 - "Acquired Debt" shall mean, with respect to any specified Person:
- (a) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Restricted Subsidiary of such specified Person (regardless of the form of the applicable transaction by which such Person became a Subsidiary) or expressly assumed in connection with the acquisition of assets from any other such Person, whether or not such Indebtedness is Incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person or of such Indebtedness being Incurred in connection with the acquisition of assets; and
 - (b) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

Acquired Debt will be deemed to be Incurred by such specified Person on the date the acquired Person becomes a Restricted Subsidiary of such specified Person or the date of the acquisition by such specified Person of assets from such other Person, as applicable.

"Additional Amendment" shall have the meaning provided in Section 2.14(c).

- "Additional Notes" shall mean additional senior secured notes issued under the 2013 Indenture, in an aggregate amount not to exceed \$100 million, having identical terms and conditions as the Senior Notes, other than issue date, issue price and, in certain circumstances, the date from which interest will accrue.
- "<u>Additional Vessel</u>" shall mean a drilling rig or drillship or other Rig that is used or useful in a Permitted Business in accordance with Section 7.16.
- " Administrative Agent" shall have the meaning provided in the first paragraph of this Agreement, and shall include any successor thereto.
- "Affiliate" shall mean, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any specified Person, means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.
 - " Affiliate Transaction " shall have the meaning provided in Section 7.12(a).
- "<u>Affiliated Lender</u>" shall mean, at any time, any Lender that is QPIL or an Affiliate of QPIL (other than the Borrower or any Subsidiary of the Borrower).
 - " Agents " shall mean, collectively, the Administrative Agent and the Other Agents.
- "Agreement" shall mean this Term Loan Agreement, as modified, supplemented, amended, restated, extended or renewed from time to time.
 - "Anti-Terrorism Laws" shall have the meaning set forth in Section 6.24.
 - "Applicable Margin" shall mean 2.50% per annum for Base Rate Loans and (b) 3.50% per annum for Eurodollar Rate Loans.
- "Appraised Value" in respect of any Rig shall mean the average of the most recent Broker Appraisals of two separate Approved Brokers for such Rig; <u>provided</u>, <u>however</u>, that no Broker Appraisal used in such calculation shall have been delivered more than 12 months prior to the relevant date of determination.
- "Approved Broker" shall mean each of Fearnleys, RS Platou, ODS Petrodata, Clarksons, Noble Denton, Pareto and each other Person that is an independent shipbroker of recognized standing in the shipping and offshore drilling industries. "Approved Manager" shall mean any direct or indirect Restricted Subsidiary of the Borrower controlled by the Borrower or any of its Restricted Subsidiaries that is appointed and remains manager of a Collateral Rig by the applicable Collateral Vessel-Owning Subsidiary.

" Asset Sale " shall mean:

- (a) any sale, transfer, lease, conveyance or other disposition, whether in a single transaction or a series of related transactions, of property or assets of the Borrower or any of the Restricted Subsidiaries, including any disposition by means of a merger, consolidation or similar transaction; <u>provided</u> that the sale, transfer, lease, conveyance or other disposition of all or substantially all of the assets of the Borrower and the Restricted Subsidiaries, taken as a whole, not be an "Asset Sale." but will be governed by Section 7.09:
- (b) the issuance or sale of Equity Interests of any Restricted Subsidiary, other than directors' qualifying shares and/or other Equity Interests that are required to be held by any Persons other than the Borrower or another Restricted Subsidiary under applicable law or regulation (including local content regulations or requirements), whether in a single transaction or a series of related transactions; and
 - (c) an Involuntary Transfer.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (i) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$25,000,000 (and the sale of such assets generates Net Proceeds of less than \$25,000,000);
 - (ii) a transfer of Equity Interests or other assets between or among the Borrower and the Restricted Subsidiaries;
 - (iii) an issuance of Equity Interests by a Restricted Subsidiary to the Borrower or to another Restricted Subsidiary;
- (iv) the sale, transfer, lease or other disposition of products, services or accounts receivable or any charter, pool agreement, drilling contract or lease of a Rig and any related assets in the ordinary course of business and any sale or conveyance or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business;
- (v) sales of assets to any customer purchased on behalf of or at the request of such customer in the ordinary course of business;
 - (vi) the sale or other disposition of cash or Cash Equivalents, hedging contracts or other financial instruments;
- (vii) licenses and sublicenses by the Borrower or any of the Restricted Subsidiaries of software or intellectual property in the ordinary course of business;
 - (viii) a Restricted Payment that does not violate Section 7.10 or a Permitted Investment;
- (ix) the creation or perfection of any Lien permitted pursuant to Section 7.08, and any disposition of assets constituting Collateral resulting from foreclosure under any such Lien by the Pari Passu Collateral Agent, or any disposition of assets not constituting Collateral resulting from foreclosure under any such Lien; and
- (x) any surrender or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims.

- "Asset Sale Offer" shall have the meaning provided in Section 7.18.
- "Asset Sale Offer Period" shall have the meaning provided in 7.18(g).
- "Asset Sale Offer Settlement Date" shall have the meaning provided in 7.18(g).
- " Asset Sale Offer Termination Date" shall have the meaning provided in 7.18(h)(i).
- "Assignment and Assumption Agreement" shall mean the Assignment and Assumption Agreement substantially in the form of Exhibit A (appropriately completed).
 - " Assignment of Earnings" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - "Assignment of Insurance Proceeds" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - " Assignment of Internal Charter" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
- "Assignment of Management Agreement" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
- "Attributable Indebtedness" in respect of a Sale and Lease-Back Transaction shall mean, at the time any determination is to be made, the present value (discounted according to GAAP at the cost of indebtedness implied in the lease; provided that if such discount rate cannot be determined in accordance with GAAP, the present value shall be discounted at the interest rate borne by the Senior Notes, compounded annually) of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale and Lease-Back Transaction (including any period for which such lease has been extended); provided, however, that if such Sale and Lease-Back Transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."
 - "Auction Manager" shall have the meaning provided in Section 2.13(a).
- "<u>Auction Notice</u>" shall mean an auction notice given by the Borrower in accordance with the Auction Proceeds with respect to a Purchase Offer.
 - "Auction Procedures" shall mean the auction procedures with respect to Purchase Offers set forth in Exhibit M hereto.

- "Authorized Representative" shall mean, with respect to (a) delivering the Notice of Borrowing and similar notices on behalf of the Borrower, any Person or Persons that has or have been authorized by the Board of Directors of the Borrower to deliver such notices pursuant to this Agreement and that has or have appropriate signature cards on file with the Administrative Agent, (b) delivering financial information and officer's certificates relating to financial matters on behalf of any specified Person pursuant to this Agreement, the chief financial officer, the treasurer or controller of such specified Person or, if there is no chief financial officer, treasurer or controller of such specified Person, any other senior executive officer of such specified Person designated by the president or the Board of Directors of such specified Person or such specified Person under this Agreement and (c) any other matter on behalf of any specified Person in connection with this Agreement or any other Loan Document, any officer (or a Person or Persons so designated by any two officers), manager or director of such specified Person or of such specified Person's general partner, if applicable.
- "<u>Bankruptcy Law</u>" shall mean Title 11 of the United States Code, as may be amended from time to time, or any similar federal, state or foreign law for the relief of debtors.
- "Base Rate" shall mean, for any day, a rate of interest per annum equal to the highest of (a) the Prime Rate for such day, (b) the sum of the Federal Funds Rate for such day plus 1/2 of 1% and (c) 1% per annum above the Eurodollar Rate for a one-month Interest Period beginning on such date (or if such day is not a Business Day, the immediately preceding Business Day).
 - "Base Rate Loan" shall mean a Loan that bears interest as provided in Section 2.06(a)(i).
- "Beneficial Owner" shall have the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have corresponding meanings.
 - "Board of Directors" shall mean:
- (a) with respect to a corporation, the board of directors of such corporation or, except in the context of the definition of "Change of Control" and "Continuing Directors," any committee thereof duly authorized to act on behalf of such board of directors;
 - (b) with respect to a partnership, the board of directors of the general partner of such partnership;
- (c) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof or the manager or any committee of managers; and
 - (d) with respect to any other Person, the board or committee of such Person serving a similar function.

- "Borrower" shall have the meaning set forth in the first paragraph of this Agreement.
- "Borrower Restricted Information" shall mean material non-public information with respect to the Borrower or its Subsidiaries or with respect to the securities of any such Person.
- "Borrowing" shall mean a simultaneous borrowing of Loans of the same Type, and with respect to Eurodollar Rate Loans, with the same Interest Period, from all the Lenders (other than any Lender which has not funded its share of a Borrowing in accordance with this Agreement).
 - "Broker Appraisal" shall mean a desktop appraisal of the fair market value of a Rig, as determined by an Approved Broker.
- "Business Day" shall mean (a) for all purposes other than as covered by the following clause (b), any day except Saturday, Sunday and any day which shall be in New York, New York, Houston, Texas or Luxembourg a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close and (b) with respect to all notices and determinations in connection with, and payments of principal and interest on, Eurodollar Rate Loans, any day which is a Business Day described in clause (a) above and which is also a day for trading by and between banks in U.S. dollar deposits in the London interbank Eurodollar market.
- "Capital Lease Obligations" shall mean, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP as in effect on the Effective Date, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty.
- "Capital Stock" shall mean (a) in the case of a corporation, corporate stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock, (c) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests and (d) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.
- "Cash Equivalents" shall mean (a) securities issued or directly and fully guaranteed or insured by the government of the United States or any other country whose sovereign debt has a rating of at least A3 from Moody's and at least A- from S&P or any agency or instrumentality thereof having maturities of not more than 12 months from the date of acquisition, (b) certificates of deposit, demand deposits and Eurodollar time deposits with

maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank organized under the laws of any country that is a member of the Organization for Economic Cooperation and Development having capital and surplus in excess of \$500,000,000 (or the equivalent thereof in any other currency or currency unit), (c) marketable general obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition thereof, having a credit rating of "A" or better from either S&P or Moody's, (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (a), (b) and (c) above entered into with any financial institution meeting the qualifications specified in clause (b) above, (e) commercial paper having one of the two highest ratings obtainable from Moody's or S&P, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings or investments, and, in each case, maturing within one year after the date of acquisition, (f) money market mutual funds substantially all of the assets of which are of the type described in the foregoing clauses (a) through (e) of this definition, and (g) in the case of the Borrower or any Restricted Subsidiary of the Borrower organized or having its principal place of business outside the United States, investments denominated in the currency of the jurisdiction in which such Person is organized or has its principal place of business or conducts business which are similar to the items specified in clauses (a) through (f) of this definition.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as the same has been amended and may hereafter be amended from time to time, 42 U.S.C. § 9601 et seq.

" Change of Control" shall mean:

- (a) the direct or indirect sale, lease (other than pursuant to any Drilling Contract or other charterparty, pool agreement or drilling contract in respect of any Rig), transfer, conveyance or other disposition (other than by way of amalgamation, merger or consolidation), in one or a series of related transactions, of all or substantially all of the properties or assets of the Borrower and the Restricted Subsidiaries, taken as a whole, to any "person" (as that term is used in Section 13(d) of the Exchange Act) other than a Permitted Holder or a Restricted Subsidiary;
 - (b) the Borrower is liquidated or dissolved, or a plan relating to the liquidation or dissolution of the Borrower is adopted;
- (c) the consummation of any transaction or any series of transactions (including, without limitation, any merger, consolidation or other business combination), the result of which is that any Person (including any "person" (as defined above)), other than one or more Permitted Holders, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of the Borrower, measured by voting power rather than number of shares, in each case other than any transaction in which the holders of the Borrower's Voting Stock immediately prior to such transaction own, immediately after such transaction, a majority of the Voting Stock of the successor or acquiring Person or any parent thereof; or
 - (d) the first day on which a majority of the members of the Board of Directors of the Borrower are not Continuing Directors.

- "Change of Control Notice" shall have the meaning provided in Section 4.03(b).
- "Change of Control Offer" shall have the meaning provided in Section 4.03(a).
- "Change of Control Payment Date" shall have the meaning provided in Section 4.03(b)(iii).
- "Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Loans or Other Term Loans and, when used in reference to any Commitment, refers to whether such Commitment is a Commitment or Incremental Commitment.
- "Classification" shall mean the class + 1A1, Vessel shaped drilling unit (N), DRILL (N), CRANE, HELDK-SH, DYNPOS-AUTRO, F-AM, EO with the Classification Society (free of all material recommendations and conditions) or other highest classification and no material overdue recommendations or adverse notations available for vessels of the same age and type as the Collateral Rigs with its Classification Society or such other classification as the Administrative Agent may, with the authorization of the Required Lenders, agree shall be treated as the Classification of a Collateral Rig for the purposes of the Loan Documents; provided that no change in Classification shall occur without Required Lenders' prior written consent.
- "Classification Society" shall mean Det Norske Veritas or such other classification society that is a member of the International Association of Classification Societies (IACS) as the Administrative Agent shall approve (acting on the authorization of the Required Lenders) from time to time.
- "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder. Section references to the Code are to the Code, as in effect at the date of this Agreement and (except as otherwise provided) any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefor.
- "Collateral" shall mean all property (whether real or personal) with respect to which any security interests have been granted (or purported to be granted) pursuant to any Security Document, including, without limitation, all Pledge Agreement Collateral, all Security Agreement Collateral, all Insurance Collateral, all Earnings Collateral, all Collateral Rigs, all Earnings Accounts and all cash and Cash Equivalents at any time delivered as collateral hereunder.
 - "Collateral and Guaranty Requirements" shall mean with respect to each Collateral Rig or Loan Party, the requirement that:
- (a) (i) each Subsidiary of the Borrower that is required to be a Subsidiary Guarantor in accordance with the definition thereof shall have duly authorized, executed and delivered to the Administrative Agent the U.S. Subsidiary Guaranty, substantially in the form of

Exhibit B (as modified, supplemented or amended from time to time, the "<u>U.S. Subsidiary Guaranty</u>"), or a supplement thereto, substantially in the form attached thereto, as applicable, and the U.S. Subsidiary Guaranty shall be in full force and effect, <u>provided</u> that this requirement shall not apply to any Foreign Subsidiary of the Borrower as to which the Administrative Agent shall have determined, based on advice of local counsel, and given written notice of such determination to the Borrower, that it would be preferable to the Lender Creditors for such Foreign Subsidiary not to execute and deliver the U.S. Subsidiary Guaranty, but only to execute and deliver a Foreign Subsidiary Guaranty as contemplated in clause (ii) below or

(ii) each Foreign Subsidiary specified in the proviso to clause (i) above shall have duly authorized, executed and delivered a guaranty governed by the laws of the jurisdiction in which such Foreign Subsidiary is organized (any such non-U.S. law governed guaranty to be executed and delivered by a Foreign Subsidiary of the Borrower pursuant to this clause (ii), as modified, amended or supplemented from time to time, a "Foreign Subsidiary Guaranty"); provided each Foreign Subsidiary Guaranty shall be prepared by local counsel reasonably satisfactory to the Administrative Agent, shall be in form and substance reasonably satisfactory to the Administrative Agent, and shall conform as nearly as possible (as to the obligations guaranteed and the rights intended to be granted thereunder) to the U.S. Subsidiary Guaranty, taking into account such variations as shall be necessary or desirable under applicable local law as reasonably determined by the Administrative Agent. Schedule B sets forth a list of all Subsidiaries of the Borrower which shall have executed and delivered a Subsidiary Guaranty on or prior to the Effective Date;

(b) (i) each Equity-Owning Subsidiary shall have (1) duly authorized, executed and delivered the U.S. Pledge Agreement substantially in the form of Exhibit C (as modified, supplemented or amended from time to time, the "U.S. Pledge Agreement") or a supplement thereto, substantially in the form attached thereto, pursuant to which all of the Capital Stock of any Collateral Vessel-Owning Subsidiary owned by such Equity-Owning Subsidiary shall have been pledged to secure the Secured Obligations, and such Equity-Owning Subsidiary shall have (x) delivered to the Pari Passu Collateral Agent, as pledgee, (if applicable) all the Pledged Securities and other Pledge Agreement Collateral referred to therein, together with executed and undated stock powers in the case of Capital Stock constituting Pledged Securities and (y) otherwise complied with all of the requirements set forth in the U.S. Pledge Agreement and (2) duly authorized, executed and delivered any other related documentation necessary or advisable as reasonably determined by the Administrative Agent to perfect the Lien on the Pledge Agreement Collateral referred to therein in the respective jurisdictions of formation or of the chief executive office, as the case may be, of such Equity-Owning Subsidiary, or as otherwise provided by applicable law, and the U.S. Pledge Agreement shall be in full force and effect, provided that this requirement shall not apply to any Foreign Equity-Owning Subsidiary as to which the Administrative Agent reasonably determines, based on advice of local counsel, and gives written notice of such determination to the Borrower, that it would be preferable to the Lender Creditors for such Foreign Equity-Owning Subsidiary not to execute and deliver the U.S. Pledge Agreement, but only to execute and deliver one or more Foreign Pledge Agreements as contemplated in clause (ii) below, and

(ii) (1) each Foreign Equity-Owning Subsidiary specified in the proviso in clause (i) above and (2) each Equity-Owning Subsidiary (whether or not a Foreign Equity-Owning Subsidiary that shall own Capital Stock in one or more Collateral Vessel-Owning Subsidiaries organized under the laws of a jurisdiction other than the jurisdiction of organization of such Equity-Owning Subsidiary (and either such Equity-Owning Subsidiary or such Collateral Vessel-Owning Subsidiary is a Foreign Subsidiary), shall have authorized, executed and delivered a pledge agreement or agreements governed by the laws of the jurisdiction where such Equity-Owning Subsidiary and/or such Collateral Vessel-Owning Subsidiary is organized, if (in the case of (1) and (2) of this clause ii) the Administrative Agent determines (based on advice of local counsel), and gives written notice to the Borrower of such determination, that it would be in the interests of the Lender Creditors that such Equity-Owning Subsidiary and/or such Collateral Vessel-Owning Subsidiary authorize, execute and deliver additional pledge agreements governed by the laws of such non-U.S. jurisdictions (each such non-U.S. law governed pledge agreement to be executed and delivered by one or more Loan Parties pursuant to this clause (ii), as modified, amended or supplemented from time to time, a "Foreign Pledge Agreement" and, collectively, the "Foreign Pledge Agreements"); provided that (x) each such Foreign Pledge Agreement shall be prepared by local counsel, shall be in form and substance reasonably satisfactory to the Administrative Agent, and shall conform as nearly as possible (as to the obligations secured thereby and the rights intended to be granted thereunder) to the U.S. Pledge Agreement, taking into account such variations as shall be necessary or desirable under applicable local law as reasonably determined by the Administrative Agent and (y) in connection with the execution and delivery of any such Foreign Pledge Agreement, the respective Loan Parties shall have taken such actions as may be necessary or desirable under local law (as advised by local counsel) to create, effect, perfect, preserve, maintain and protect the security interests granted (or purported to be granted) thereby as reasonably determined by the Administrative Agent. The U.S. Pledge Agreement and each Foreign Pledge Agreement listed on Section A of Schedule C shall be in full force and effect on or prior to the Effective Date. Section B of Schedule C sets forth a list of each Person who shall be an Equity-Owning Subsidiary as of the Effective Date.

In the case of each applicable Pledge Agreement, the Administrative Agent shall have received evidence that all other actions necessary or, in the reasonable opinion of the Administrative Agent desirable, to perfect and protect the security interests purported to be created by such Pledge Agreement have been taken.

(iii) the Pari Passu Collateral Agent shall have received duly authorized, executed and delivered, with respect to each Collateral Rig, (1) an Assignment of Insurance Proceeds from each Collateral Vessel-Owning Subsidiary and each Internal Charterer substantially in the form of Exhibit D (each, as amended, modified or supplemented from time to time, an "Assignment of Insurance Proceeds" and, together with any additional assignment of insurance proceeds executed and delivered pursuant to Section 7.07, the "Assignments of Insurance Proceeds shall be in full force and effect, (2) an Assignment of Earnings from each Collateral Vessel-Owning Subsidiary and each Internal Charterer in the form of Exhibit E (each, as

amended, modified or supplemented from time to time, together with any additional assignment of earnings executed and delivered pursuant to Section 7.07, the "Assignment of Earnings"), covering all Earnings Collateral, and each Assignment of Earnings shall be in full force and effect and (3) a control agreement with respect to each Earnings Account, and such control agreements shall be in full force and effect; (4) if a management agreement has been entered into with respect to a Collateral Rig, an Assignment of Management Agreement substantially in the form of Exhibit F (each, as amended, modified or supplemented from time to time, an "Assignment of Management Agreement" and, together with any additional Assignments of Management Agreement executed and delivered pursuant to Section 7.07, the "Assignments of Management Agreement") covering the relevant Collateral Vessel-Owning Subsidiary's rights therein and executed by such Collateral Vessel-Owning Subsidiary and by the initial Approved Manager or any replacement thereof or any submanagement agreement, together with appropriate notices and acknowledgements thereof and (5) if an Internal Charter has been entered into with respect to a Collateral Rig, an Assignment of Internal Charter substantially in the form of Exhibit G (each, as amended, modified or supplemented from time to time, an "Assignment of Internal Charter" and, together with any additional Assignments of Internal Charter executed and delivered pursuant to Section 7.07, the "Assignments of Internal Charter") covering the internal charter and the Earnings in connection therewith, together with appropriate notices and acknowledgments thereof, and a copy of such Internal Charter (certified by an Authorized Representative of the Borrower as true, correct and complete);

- (iv) the Subsidiary Guarantors (other than the Equity-Owning Subsidiaries) each shall have duly authorized, executed and delivered a Security Agreement in the form of Exhibit H (each, as amended, modified or supplemented from time to time, a "U.S. Security Agreement" and, together with any additional security agreements executed and delivered pursuant to Section 7.07, the "U.S. Security Agreements") and each U.S. Security Agreement shall be in full force and effect;
- (v) the Loan Parties other than the Borrower shall have delivered (i) financing statements (Form UCC-1) in proper form for filing under the UCC or in other appropriate filing offices of each jurisdiction as may be necessary, or in the reasonable opinion of the Administrative Agent desirable, to perfect the security interests purported to be created by the Pledge Agreements, Assignment of Earnings, the Assignment of Insurance Proceeds and the U.S. Security Agreements, (ii) certified copies of requests for information or copies (Form UCC-11), or equivalent reports as of a recent date, listing all effective financing statements that name any Loan Party as debtor and that are filed in Washington D.C. and any other relevant jurisdiction, together with copies of such other financing statements (none of which (other than in respect of Permitted Liens) shall cover the Collateral unless the Administrative Agent shall have received Form UCC-3 Termination Statements (or such other termination statements as shall be required by local law) fully completed for filing if required by applicable laws in respect thereof) and (iii) in the case of the Pledge Agreements, evidence that all other actions necessary or, in the reasonable opinion of the Administrative Agent desirable, to perfect and protect the security interests purported to be created by the respective Pledge Agreement have been taken;

- (vi) each Collateral Vessel-Owning Subsidiary shall have duly authorized, executed and delivered, with respect to each Collateral Rig in which it has an interest, a first preferred mortgage in form for filing in the appropriate rig registry (as modified, amended or supplemented from time to time in accordance with the terms thereof and hereof, a "Collateral Rig Mortgage" and, together with any additional collateral rig mortgages executed and delivered pursuant to Section 7.07, the "Collateral Rig Mortgages"), substantially in the form of Exhibit I, with respect to such Collateral Rig, and such Collateral Rig Mortgage shall be effective upon filing to create in favor of the Pari Passu Collateral Agent, for the benefit of the Lender Creditors, a legal, valid and enforceable preferred ship mortgage on, and Lien upon, such Collateral Rig, subject only to Permitted Liens, and each Collateral Rig Mortgage shall be in full force and effect;
- (vii) all filings, deliveries of instruments, legal opinions and other actions necessary or desirable in the reasonable opinion of the Administrative Agent to perfect and preserve the security interests described in clauses (ii) through (vi) above shall have been duly effected and the Pari Passu Collateral Agent shall have received evidence thereof in form and substance reasonably satisfactory to the Administrative Agent; and
 - (viii) the Administrative Agent shall have received each of the following:
 - (1) certificates of ownership from appropriate authorities (x) showing (or confirmation updating previously reviewed certificates and indicating) the registered ownership of such Collateral Rig in the name of the relevant Collateral Vessel-Owning Subsidiary; and (y) indicating no record liens other than Permitted Liens and Liens to be released on the Effective Date in connection with the Refinancing; and
 - (2) class certificates from a classification society recognized by the United States Coast Guard or another classification society indicating that such Collateral Rig meets the criteria specified in Section 6.22(c); and
 - (3) if applicable, certified copies of all ISM and ISPS Code documentation for each Collateral Rig; and
 - (4) a certificate or letter of undertaking from the Borrower's marine insurance brokers, in form and scope reasonably satisfactory to the Administrative Agent, certifying that the insurance maintained by the Loan Parties in respect of each Collateral Rig (x) is placed with such insurance companies and/or underwriters and/or clubs, in such amounts, against such risks, and in such form, as are customarily insured against by companies operating in the offshore drilling industry for the protection of the Pari Passu Collateral Agent and/or the Lenders as secured party and mortgagee and (y) including, without limitation, the insurance required by Section 7.01.
 - "Collateral Rig" shall mean each Rig listed on Schedule 6.22.
 - "Collateral Rig Mortgages" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".

- "Collateral Vessel-Owning Subsidiary" shall mean each of the Borrower's Subsidiaries that has an ownership interest in one or more Collateral Rigs.
- "Commitment" shall mean, with respect to each Lender, such Lender's Term Loan Commitment and/or such Lender's Incremental Commitment, as applicable.
 - "Communications" shall have the meaning provided in Section 10.03(d)(ii).
- "Consolidated Cash Flow" shall mean, with respect to any period, Consolidated Net Income of the Borrower for such period (a) plus, without duplication:
 - (i) provision for taxes based on income or profits of the Borrower and the Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income;
 - (ii) Consolidated Interest Expense of the Borrower and the Restricted Subsidiaries for such period to the extent that such Consolidated Interest Expense was deducted in computing such Consolidated Net Income; and
 - (iii) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of the Borrower and the Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income;
- (b) minus non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business, in each case, on a consolidated basis and determined in accordance with GAAP.
- "Consolidated Interest Coverage Ratio" shall mean, for any period, the ratio of Consolidated Cash Flow of the Borrower for such period to Consolidated Interest Expense of the Borrower for such period; provided, however, that:
- (a) if the Borrower or any of the Restricted Subsidiaries has Incurred any Indebtedness since the beginning of such period that remains outstanding on the date a determination of the Consolidated Interest Coverage Ratio is to be made, or if the transaction giving rise to the need to calculate the Consolidated Interest Coverage Ratio is an Incurrence of Indebtedness, or both (in each case other than working capital borrowings under a revolving credit facility), Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated after giving effect on a pro forma basis to such Indebtedness as if such Indebtedness had been Incurred on the first day of such period;
- (b) if the Borrower or any of the Restricted Subsidiaries has repaid, repurchased, defeased or otherwise discharged any Indebtedness since the beginning of such period that is no longer outstanding on such date of determination, or if any Indebtedness is to be repaid, repurchased, defeased or otherwise discharged (in each case other than Indebtedness Incurred

under any revolving credit facility unless such Indebtedness has been permanently repaid and the related commitment has been terminated) on the date of the transaction giving rise to the need to calculate the Consolidated Interest Coverage Ratio, Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated on a pro forma basis as if such repayment, repurchase, defeasance or discharge had occurred on the first day of such period;

- (c) if, since the beginning of such period, the Borrower or any Restricted Subsidiary shall have made any Asset Sale, Consolidated Cash Flow for such period shall be reduced by an amount equal to the Consolidated Cash Flow (if positive) directly attributable to the assets which are the subject of such Asset Sale for such period, or increased by an amount equal to the Consolidated Cash Flow (if negative) directly attributable thereto for such period, and Consolidated Interest Expense for such period shall be reduced by an amount equal to the Consolidated Interest Expense directly attributable to any Indebtedness of the Borrower or any Restricted Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Borrower and the continuing Restricted Subsidiaries in connection with such Asset Sale for such period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Interest Expense for such period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Borrower and the continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such sale);
- (d) if, since the beginning of such period, any Person that subsequently became a Restricted Subsidiary or was merged with or into the Borrower or any Restricted Subsidiary since the beginning of such period shall have made any Asset Sale, any Investment or acquisition of assets that would have required an adjustment pursuant to clause (c) above or (g) or (h) below if made by the Borrower or a Restricted Subsidiary during such period, Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto as if such Asset Sale, Investment or acquisition had occurred on the first day of such period;
- (e) if, since the beginning of such period, any Person was designated as an Unrestricted Subsidiary or redesignated as or otherwise became a Restricted Subsidiary, Consolidated Cash Flow and Consolidated Interest Expense shall be calculated as if such event had occurred on the first day of such period;
- (f) Consolidated Cash Flow and Consolidated Interest Expense of discontinued operations recorded on or after the date such operations are classified as discontinued in accordance with GAAP shall be excluded but, with respect to Consolidated Interest Expense, only to the extent that the obligations giving rise to such Consolidated Interest Expense will not be obligations of the Borrower or any of the Restricted Subsidiaries following such classification;
- (g) if, since the beginning of such period, the Borrower or any Restricted Subsidiary shall have (i) by merger or otherwise, made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary or is merged with or into the Borrower or a Restricted Subsidiary), or (ii) acquired assets constituting all or substantially all of an operating unit of a business or an Additional Vessel, Consolidated Cash Flow and Consolidated Interest Expense for such period shall be calculated after giving pro forma effect

thereto, as determined in good faith by a Financial Officer of the Borrower (including, without limitation, the Incurrence of any Indebtedness) as if such Investment or acquisition had occurred on the first day of such period; and

(h) if the Borrower or any Restricted Subsidiary shall have entered into an agreement to build or acquire an Additional Vessel that at the time of calculation is being constructed on behalf of the Borrower or such Restricted Subsidiary, is scheduled for delivery no later than one year from the time of calculation and is, or is reasonably expected to be upon delivery (as determined by the Board of Directors of the Borrower), subject to a Qualified Services Contract, then Consolidated Cash Flow and Consolidated Interest Expense for such period may, at the Borrower's election, be calculated after giving pro forma effect thereto as if the Additional Vessel subject to such committed construction contract had been acquired by the Borrower or such Restricted Subsidiary on the first day of such period.

Any pro forma calculations giving effect to the acquisition of an Additional Vessel or to a committed construction contract with respect to an Additional Vessel that is, or is reasonably expected to be, subject to a Qualified Services Contract shall be made as follows:

- (i) the amount of Consolidated Cash Flow attributable to such Additional Vessel shall be calculated in good faith by a Financial Officer of the Borrower;
- (ii) in the case of earned revenues under a Qualified Services Contract, Consolidated Cash Flow shall be based on revenues actually earned pursuant to the Qualified Services Contract relating to such Additional Vessel or Additional Vessels, taking into account, where applicable, only actual expenses Incurred without duplication in any measurement period;
- (iii) the amount of Consolidated Cash Flow shall be the lesser of Consolidated Cash Flow derived on a pro forma basis from revenues for (1) the first full year of the Qualified Services Contract and (2) the average of Consolidated Cash Flow of each year of such Qualified Services Contract for the term of the Qualified Services Contract, or in the case of an Additional Vessel not subject to a Qualified Services Contract, Consolidated Cash Flow shall be based upon the average of the historical earnings of comparable Vessels in the Borrower's and its Restricted Subsidiaries' fleet over the most recently completed four fiscal quarters, as determined in good faith by a Financial Officer of the Borrower;
- (iv) in determining the estimated expenses attributable to such Additional Vessel, the calculation shall give effect to the interest expense attributable to the Incurrence, assumption or guarantee of any Indebtedness (including Indebtedness that is anticipated to be Incurred following the time of calculation in order to consummate the construction, acquisition and/or delivery of the Additional Vessel) relating to the construction, delivery and/or acquisition of such Additional Vessel; and
- (v) with respect to any expenses attributable to an Additional Vessel, if the actual expenses differ from the estimate, the actual amount shall be used in such calculation.

- "Consolidated Interest Expense" shall mean, with respect to any Person for any period, the sum, without duplication, of:
- (a) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued, including, without limitation, amortization of original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Indebtedness, commissions, discounts and other fees and charges Incurred in respect of letter of credit or bankers' acceptance financings, and net payments (if any) pursuant to interest rate Hedging Obligations, but excluding:
 - (i) amortization of debt issuance costs; and
 - (ii) any nonrecurring charges relating to any premium or penalty paid, write-off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its Stated Maturity, to the extent that any of such nonrecurring charges constitute interest expense);
 - (b) the consolidated interest expense of such Person and any Restricted Subsidiaries that was capitalized during such period; and
- (c) all dividends, whether paid or accrued and whether or not in cash, in respect of any Preferred Stock of any Restricted Subsidiary or any Disqualified Stock of the Borrower or any Restricted Subsidiary, other than (i) dividends payable solely in Equity Interests (other than Disqualified Stock) and (ii) dividends payable to the Borrower or any Restricted Subsidiary.
- "Consolidated Net Income" shall mean, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP; <u>provided</u> that:
- (a) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the specified Person during such period;
- (b) solely for the purpose of determining the amount available for Restricted Payments under Section 7.10(a)(iii)(1), the Net Income (but not loss) of any Restricted Subsidiary of such Person (other than a Restricted Subsidiary that is a Subsidiary Guarantor) will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its

stockholders, in each case other than by reason of restrictions in the Revolving Credit Agreement, this Agreement, the SSCF or the Existing PDV Notes indenture, in each case as in effect on the Effective Date; <u>provided</u> that if Net Income is excluded by operation of this provision with respect to a period because of restrictions on dividends or distributions applicable during such period that cease to apply in a subsequent period, such restrictions shall be deemed not to have applied in the initial period in subsequent calculations under this definition;

- (c) the cumulative effect of a change in accounting principles will be excluded;
- (d) non-cash gains and losses due solely to fluctuations in currency values will be excluded;
- (e) in the case of a successor to the referenced Person by consolidation or merger or as a transferee of the referenced Person's assets, any earnings (or losses) of the successor corporation prior to such consolidation, merger or transfer of assets will be excluded;
- (f) the effects resulting from the application of purchase accounting in relation to any acquisition that is consummated after the Effective Date will be excluded:
 - (g) any unrealized gain (or loss) in respect of Hedging Obligations will be excluded;
- (h) non-cash charges or expenses with respect to the grant of stock options, restricted stock or other equity compensation awards will be excluded; and
- (i) goodwill write-downs or other non-cash impairments of assets, or restructuring charges or severance costs associated with acquisitions or dispositions will be excluded.
- "Consolidated Net Tangible Assets" as of any date of determination, shall mean consolidated total assets of the Borrower and the Restricted Subsidiaries determined in accordance with GAAP, less the sum of:
- (a) all current liabilities (excluding the amount of those which are by their terms extendable or renewable at the option of the obligor to a date more than 12 months after the date as of which the amount is being determined); and
- (b) all goodwill, trade names, trademarks, patents, organization expense, unamortized debt discount and expense and other similar intangibles properly classified as intangible assets in accordance with GAAP.
- "Conversion," "Convert" and "Converted" each refer to a conversion of Loans of one Type into Loans of the other Type pursuant to Sections 2.06(c), 2.07, or 2.08.
 - "Continuing Directors" shall mean, as of any date of determination, any member of the Board of Directors of the Borrower who:
 - (a) was a member of such Board of Directors on the Effective Date; or

- (b) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election.
- "Credit Agreement Documents" shall mean the Revolving Credit Agreement, the notes issued under the Revolving Credit Agreement, each Security Document (as defined in the Revolving Credit Agreement) and any other Credit Documents (as defined in the Revolving Credit Agreement).
- "Credit Facilities" means one or more debt facilities (including the Revolving Credit Agreement and this Agreement), commercial paper facilities, loan agreements, indentures or agreements of the Borrower or any Restricted Subsidiary with banks, other institutional lenders, commercial finance companies or other lenders or investors providing for revolving credit loans, term loans, bonds, debentures or letters of credit, pursuant to agreements or indentures, in each case, as amended, restated, modified, renewed, refunded, replaced, increased or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time (and without limitation as to amount, terms, conditions, covenants and other provisions, including increasing the amount of available borrowings thereunder, changing or replacing agent banks and lenders thereunder or adding, removing or reclassifying Subsidiaries of the Borrower as borrowers or guarantors thereunder).
 - "Custodian" shall mean any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.
- "<u>Debtor Relief Laws</u>" means any Bankruptcy Law, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.
 - "Default" shall mean any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.
 - "<u>Default Interest</u>" shall have the meaning provided in Section 2.06(b).
- "<u>Disqualified Stock</u>" shall mean any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of such Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable (in each case other than in exchange for or conversion into Capital Stock that is not Disqualified Stock), pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of such Capital Stock, in whole or in part, on or prior to the date that is 91 days after the Initial Maturity Date. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of such Capital Stock have the right to require the Borrower to repurchase or redeem such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Borrower may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redeemtion complies

with the covenant set forth in Section 7.10. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Agreement will be the maximum amount that the Borrower and the Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock.

- "Dollars" and the sign "\$" shall each mean lawful money of the United States.
- "<u>Dollar Equivalent</u>" shall mean, with respect to any monetary amount in a currency other than U.S. dollars, at any time of determination thereof, the amount of U.S. dollars obtained by converting such other currency involved in such computation into U.S. dollars at the spot rate for the purchase of U.S. dollars with such other currency as published in the "Currency Rates" section of the Financial Times entitled "Currencies, Bonds & Interest Rates" (or, if the Financial Times is no longer published, or if such information is no longer available in the Financial Times, such source as may be selected in good faith by the Borrower) on the date of such determination. Except as expressly provided otherwise, whenever it is necessary to determine whether the Borrower or any of its Restricted Subsidiaries has complied with any covenant or other provision in the Indenture or if there has occurred an Event of Default and an amount is expressed in a currency other than U.S. Dollars, such amount will be treated as the Dollar Equivalent determined as of the date such amount is initially determined in such non-dollar currency.
- "<u>Domestic Subsidiary</u>" shall mean, as to any Person, each Subsidiary of such Person that is organized under the laws of the United States, any state thereof or the District of Columbia.
- "<u>Drilling Contract</u>" shall mean any charterparty, pool agreement or drilling contract in respect of any Collateral Rig or other contract for use of any Collateral Rig.
- "Earnings" shall mean, with respect to any Collateral Rig, (a) all freight, hire and passage moneys payable to the Borrower or any of its Subsidiaries as a consequence of the operation of such Collateral Rig, including without limitation payments under any Drilling Contract in respect of such Collateral Rig, (b) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Borrower or any of its Subsidiaries as a consequence of the operation of such Collateral Rig; (c) compensation payable to the Borrower or any of its Subsidiaries in the event of any requisition of such Collateral Rig; (d) remuneration for salvage, towage and other services performed by such Collateral Rig and payable to the Borrower or any of its Subsidiaries; (e) demurrage and retention money receivable by the Borrower or any of its Subsidiaries in relation to such Collateral Rig; (f) all moneys which are at any time payable under the insurances in respect of loss of Earnings with respect to such Collateral Rig; (g) if and whenever such Collateral Rig is employed on terms whereby any moneys falling within items (a) through (f) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to such Collateral Rig; and (viii) other money whatsoever due or to become due to any of the Borrower or any of its Subsidiaries in relation to such Collateral Rig.

- "Earnings Accounts" shall mean, with respect to any Collateral Rig, an interest bearing account into which all Earnings derived from any Drilling Contract with respect to such Collateral Rig (other than Earnings payable to a Local Content Subsidiary) and all Event of Loss Proceeds received in respect of an Event of Loss with respect to such Collateral Rig shall be deposited or forwarded that is subject to an account control agreement, except to the extent prohibited by applicable law.
 - "Earnings Collateral" shall mean, collectively, all "Collateral" as defined in each Assignment of Earnings.
 - "Effective Date" shall have the meaning provided in the first paragraph of Section 5.01.
- "Eligible Transferee" shall mean and include a commercial bank, an insurance company, a finance company, a financial institution, any fund that invests in loans or any other "accredited investor" (as defined in Regulation D of the Securities Act) or any Affiliated Lender; provided that neither the Borrower nor any of its Subsidiaries shall be an Eligible Transferee at any time.
- "Environmental Claims" shall mean any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, Liens, notices of noncompliance or violation, investigations or proceedings relating in any way to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereafter, "Claims"), including (a) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response or remedial actions or damages pursuant to any Environmental Law, and (b) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief arising out of alleged injury or threat of injury to health, safety or the environment to the extent due to the Release of or exposure to Hazardous Materials.
- "Environmental Law" shall mean any applicable federal, state, foreign, national, international or local statute, law, rule, regulation, ordinance, code, convention legally binding and enforceable guideline or written policy and rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, to the extent binding on the Borrower or any of its Subsidiaries, relating to the environment, employee health and safety or Hazardous Materials, including CERCLA; OPA; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq. (to the extent it regulates occupational exposure to Hazardous Materials); and any state and local or foreign counterparts or equivalents, in each case as amended from time to time.
- "Equity Interests" shall mean Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security or loan that is convertible into, or exchangeable for, Capital Stock).

- "<u>Equity-Owning Subsidiaries</u>" shall mean each direct and indirect Subsidiary of the Borrower that is now, or that hereafter becomes, a direct owner of any Capital Stock in any Collateral Vessel-Owning Subsidiary.
- "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder. Section references to ERISA are to ERISA, as in effect at the date of this Agreement and any subsequent provisions of ERISA, amendatory thereof, supplemental thereto or substituted therefor.
- "ERISA Affiliate" shall mean each person (as defined in Section 3(9) of ERISA) which together with the Borrower or a Domestic Subsidiary of the Borrower would be deemed to be a "single employer" within the meaning of Section 414(b), (c), (m) or (o) of the Code.
 - "EU Savings Directive" means the European Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income.
- "Eurodollar Rate" shall mean with respect to each Interest Period for any Eurodollar Rate Loan, a rate of interest per annum equal to the higher of (a) the offered rate (rounded upward to the nearest 1/16 of one percent) for deposits of Dollars for a period equivalent to such period at or about 11:00 A.M. (London time) on the Interest Determination Date for such Interest Period as is displayed on Reuters LIBOR01 Page (or such other service as may be nominated by the British Bankers' Association as the information vendor for displaying the London Interbank Offered Rates of major banks in the London Interbank Market) (the "Screen Rate"), provided that if on such Interest Determination Date no such rate is so displayed, the Eurodollar Rate for such period shall be the arithmetic average (rounded upward to the nearest 1/16th of 1%) of the rates quoted to the Administrative Agent by the Reference Banks for deposits of Dollars in an amount approximately equal to the amount in relation to which the Eurodollar Rate is to be determined for a period equivalent to such applicable Interest Period in the London interbank Eurodollar market at or about 11:00 A.M. (London time) on such Interest Determination Date, in each case divided (and rounded upward to the nearest 1/16 of 1%) by a percentage equal to 100% minus the then stated maximum rate of all reserve requirements (including, without limitation, any marginal, emergency, supplemental, special or other reserves required by applicable law) applicable to any member bank of the Federal Reserve System in respect of Eurocurrency funding or liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D), and (b) 1.00%.
 - "Eurodollar Rate Loan" shall mean a Loan that bears interest as provided in Section 2.06(a)(ii).
 - "Event of Default" shall have the meaning provided in Section 8.
 - "Event of Loss" shall mean any of the following events:
 - (a) the actual or constructive total loss of any Collateral Rig or the agreed or compromised total loss of any Collateral Rig;
 - (b) the destruction of any Collateral Rig;

- (c) damage to any Collateral Rig to an extent, determined in good faith by the Borrower within 90 days after the occurrence of such damage, as shall make repair thereof uneconomical or shall render such Collateral Rig permanently unfit for normal use (other than obsolescence); or
- (d) the condemnation, confiscation, requisition for title, seizure, forfeiture or other taking of title to or use of any Collateral Rig that shall not be revoked within six months.

An Event of Loss shall be deemed to have occurred:

- (a) in the event of the destruction or other actual total loss of any Collateral Rig, on the date of such loss, or if such date is unknown, on the date such Collateral Rig was last reported;
- (b) in the event of a constructive, agreed or compromised total loss of any Collateral Rig, on the date of determination of such total loss:
 - (c) in the case of any event referred to in clause (c) above, upon the such date of determination; or
 - (d) in the case of any event referred to in clause (d) above, on the date that is six months after the occurrence of such event.
- "Event of Loss Proceeds" means all cash compensation, damages and other payments (including insurance proceeds) received by the Borrower or a Subsidiary or the Pari Passu Collateral Agent from any Person, including any governmental authority, with respect to or in connection with an Event of Loss.

"Excess Proceeds" shall have the meaning set forth in Section 7.18(e).

- "Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC thereunder.
- "Excluded Taxes" shall mean any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, branch profits Taxes and net wealth Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, a resident for tax purposes in by reason of maintaining a fixed place of business in, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, Luxembourg withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.11) or (ii) such Lender changes its lending office (other than pursuant to Section 2.10), except in each case to the extent that, pursuant to Section 4.07 amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its

lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 4.07(g), (d) Taxes required by virtue of (i) the EU Savings Directive; (ii) the Luxembourg laws of 21 June 2005 implementing the EU Savings Directive and several bilateral agreements concluded with certain dependant or associated territories of the European Union; or (iii) the Luxembourg law of 23 December 2005 and (e) any U.S. federal withholding Taxes imposed under FATCA.

- "Executive Order" shall have the meaning set forth in Section 6.24.
- "Existing Indebtedness" shall mean Indebtedness of the Borrower and its Subsidiaries in existence on the Effective Date, other than the Senior Notes and the guarantees by the Subsidiary Guarantors thereof (provided that, for purposes of Section 7.11 Indebtedness outstanding on the Effective Date under (a) the Revolving Credit Agreement, (b) this Agreement, (c) the SSCF and (d) the Existing PDV Notes will be deemed to be Incurred under clauses (a) or (b) of the definition of "Permitted Debt" herein, and not Section 7.11(b)).
 - "Existing Loans" shall have the meaning provided in Section 2.14.
- "Existing PDV Notes" shall mean the 7.250% Senior Secured Notes due 2017 issued by Pacific Drilling V Limited under the Indenture, dated as of November 28, 2012, among Pacific Drilling V Limited, the Borrower and each other guarantor from time to time party thereto, as guarantors, and Deutsche Bank Trust Company Americas, as trustee and as collateral agent.
- "Existing PFA" shall mean the Third Amendment and Restatement Agreement in respect of the Project Facilities Agreement and the Intercreditor Agreement, dated April 19, 2012, among Pacific Bora Ltd., Pacific Mistral Ltd., Pacific Scirocco Ltd., and Pacific Santa Ana S.à.r.l., as the borrowers, Pacific Drilling Limited, as guarantor, Pacific Bora Ltd., Pacific Scirocco Ltd., Pacific Drilling Limited, Pacific International Drilling West Africa Limited, Pacific Drilling (Gibraltar) Limited, and Pacific Drilling S.A., as the TI Bond Facility Obligors and the arrangers, lenders and agents named therein.
 - " Extended Loans" shall have the meaning provided in Section 2.14(a).
 - "Extending Lender" shall have the meaning provided in Section 2.14(b).
 - "Extension Amendment" shall have the meaning provided in Section 2.14(c).
 - "Extension Date" shall have the meaning provided in Section 2.14(d).
 - "Extension Election" shall have the meaning provided in Section 2.14(b).
 - "Extension Request" shall have the meaning provided in Section 2.14(a).
- "Extension Series" shall mean all Extended Loans that are established pursuant to the same Extension Amendment (or any subsequent Extension Amendment to the extent such Extension Amendment expressly provides that the Extended Loans provided for therein are intended to be a part of any previously established Extension Series) and that provide for the same interest margins, extension fees, maturity and other terms.

- "Fair Market Value" shall mean the value that would be paid by an informed and willing buyer to an unaffiliated, informed and willing seller in a transaction not involving distress or necessity of either party, as determined in good faith by an Authorized Representative of the Borrower or, with respects to such values in excess of \$25,000,000, the Board of Directors of the Borrower (unless otherwise provided in this Agreement).
- "FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.
 - "FCPA" shall mean the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.
- "Federal Funds Rate" shall mean, for any period, a fluctuating interest rate equal for each day during such period to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three Federal Funds brokers of recognized standing selected by the Administrative Agent.
- "Fee Letters" shall mean each of (a) the fee letter agreement, dated as of April 29, 2013, among the Borrower, Goldman Sachs Bank USA, Goldman Sachs Lending Partners LLC, Citigroup Global Markets Inc., Deutsche Bank AG New York Branch, Deutsche Bank Securities Inc. and Barclays Bank PLC and (b) the fee letter agreement, dated as of April 29, 2013, between the Borrower and Citigroup Global Markets Inc.
 - "Fees" shall mean all amounts payable pursuant to or referred to in Section 3.01.
- "Financial Officer" shall mean, with respect to any Person, the chief executive officer, chief financial officer, chief accounting officer or treasurer of such Person.
 - "Foreign Equity-Owning Subsidiary" shall mean any Equity-Owning Subsidiary that is then a Foreign Subsidiary.
- "Foreign Pension Plan" shall mean any plan, fund (including, without limitation, any superannuation fund) or other similar program established or maintained outside the United States of America by the Borrower or any one or more of its Restricted Subsidiaries primarily for the benefit of employees of the Borrower or such Restricted Subsidiaries residing outside the United States of America, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made on termination of employment, and which plan is not subject to ERISA or the Code.
 - "Foreign Pledge Agreement" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".

- "Foreign Subsidiary Guaranty" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
- "Foreign Subsidiary" shall mean, as to any Person, each Subsidiary of such Person which is not a Domestic Subsidiary.
- "GAAP" shall mean generally accepted accounting principles in the United States consistently applied in accordance with Section 10.07(a).
- "Governmental Authority" shall mean the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).
- "Hazardous Materials" shall mean (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, ureaformaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, and radon gas, (b) any chemicals, materials or substances regulated as "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous substances," "restricted hazardous waste," "toxic substances," "toxic pollutants," or "pollutants," or words of similar import, under any Environmental Law, and (c) any other chemical, material or substance, exposure to which is regulated by any Governmental Authority under Environmental Laws.
 - " Hedging Obligations" shall mean, with respect to any specified Person, the obligations of such Person under:
- (a) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements designed to protect such Person or any of its Restricted Subsidiaries entering into the agreement against, or manage exposure to, fluctuations in interest rates, or to otherwise reduce the cost of borrowing of such Person or any of such Restricted Subsidiaries, with respect to Indebtedness incurred;
- (b) foreign exchange contracts and currency protection agreements designed to protect such Person or any of its Restricted Subsidiaries entering into the agreement against, or manage exposure to, fluctuations in currency exchanges rates;
- (c) any commodity futures contract, commodity swap, commodity option, commodity forward sale or other similar agreement or arrangement designed to protect against, or manage exposure to, fluctuations in the price of commodities used by such Person or any of its Restricted Subsidiaries at the time; and
- (d) other agreements or arrangements designed to protect such Person or any of its Restricted Subsidiaries against, or manage exposure to, fluctuations in interest rates, commodity prices or currency exchange rates.

- "Inactive Subsidiary" shall mean, at any time, each Restricted Subsidiary of the Borrower which (a) is not a Collateral Vessel-Owning Subsidiary, an Equity-Owning Subsidiary or an Internal Charterer, (b) does not own assets with an aggregate fair market value (as determined in good faith by the management of the Borrower) in excess of \$1,000,000 and (c) which at such time is inactive (i.e., does not conduct any business).
 - "Incremental Lender" shall mean a Lender with an Incremental Commitment or an outstanding Other Term Loan.
- "Incremental Assumption Agreement" shall mean an Incremental Assumption Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Borrower, the Administrative Agent and one or more Incremental Lenders establishing a Class of Other Term Loans hereunder.
- "Incremental Commitment" shall mean the commitment of any Lender, established pursuant to Section 2.12, to make Other Term Loans to the Borrower.
- "Incremental Commitment Amount" shall mean, at any time of determination, \$1,700,000,000 minus the aggregate amount of all Pari Passu Obligations (excluding the Revolving Credit Obligations).
- " <u>Incremental Maturity Date</u>" shall mean the final maturity date of any Other Term Loan, as set forth in the applicable Incremental Assumption Agreement.
 - "Incremental Repayment Amount" shall have the meaning provided in Section 4.05(b).
- "Incremental Repayment Dates" shall mean the dates scheduled for the repayment of principal of any Other Term Loan, as set forth in the applicable Incremental Assumption Agreement.
 - "Incur" shall have the meaning provided in Section 7.10(a)(ii).
- "Indebtedness" shall mean, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables (or intercompany reimbursement obligations in respect thereof) in the ordinary course of business), whether or not contingent:
 - (a) in respect of borrowed money;
 - (b) evidenced by bonds, notes, debentures or similar instruments;
- (c) representing reimbursement obligations in respect of letters of credit, bankers' acceptances or other similar instruments, other than such reimbursement obligations that relate to trade payables or other obligations that are not themselves Indebtedness, in each case, that were entered into in the ordinary course of business of such Person to the extent such reimbursement obligations are satisfied within 10 business days following payment on the letter of credit, bankers' acceptance or similar instrument;

- (d) representing Capital Lease Obligations of such Person;
- (e) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed;
 - (f) representing Hedging Obligations of such Person; or
 - (g) representing Attributable Indebtedness of such Person in respect of Sale and Leaseback Transactions,

if and to the extent any of the preceding items (other than letters of credit, Hedging Obligations and Attributable Indebtedness) would appear as a liability upon a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified Person) and, to the extent not otherwise included, the guarantee by the specified Person of any Indebtedness of any other Person.

- "Indemnified Party" shall have the meaning provided in Section 10.01.
- "Indemnified Taxes" shall mean (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.
- "Indenture Documents" shall mean the 2013 Indenture, the Senior Notes, the Subsidiary Guarantees (as defined in the 2013 Indenture) and the Collateral Agreements (as defined in the 2013 Indenture) and any other agreement, instrument or other document evidencing or governing any Note Obligations.
 - "Initial Maturity Date" shall mean June 3, 2018.
- "Insolvency or Liquidation Proceeding." shall mean: (a) any voluntary or involuntary case or proceeding under any bankruptcy law with respect to any Subsidiary Guarantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Subsidiary Guarantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Subsidiary Guarantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Borrower permitted by the Pari Passu Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Subsidiary Guarantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Subsidiary Guarantor are determined and any payment or distribution is or may be made on account of such claims.
 - "Insurance Collateral" shall mean, collectively, all "Insurance Proceeds" as defined in each Assignment of Insurance Proceeds.

- "Intercreditor Agreement" shall mean (i) the intercreditor agreement among the Pari Passu Collateral Agent, the Trustee, the Revolving Credit Agent, the Administrative Agent, the Borrower, each other Loan Party and the other parties from time to time party thereto, and acknowledged and agreed to by the Borrower and each other Loan Party, to be entered into on the date hereof, as it may be amended, restated, supplemented or otherwise modified from time to time in accordance with its terms and this Agreement and (ii) any replacement thereof that contains terms not materially less favorable to the Lenders than the Intercreditor Agreement referred to in clause (i).
- "Interest Determination Date" shall mean, with respect to any Eurodollar Rate Loan, the second Business Day prior to the commencement of any Interest Period relating to such Loan.
- "Interest Period" shall mean, for each Eurodollar Rate Loan comprising part of the same Borrowing, the period commencing on the date of such Eurodollar Rate Loan or the date of the Conversion of any Base Rate Loan into such Eurodollar Rate Loan, and ending on the last day of the period selected by the Borrower pursuant to the provisions below and, thereafter, each subsequent period commencing on the last day of the immediately preceding Interest Period and ending on the last day of the period selected by the Borrower pursuant to the provisions below. The duration of each such Interest Period shall be one-, two-, three- or six-months (or such other period that is twelve months or less, if requested by the Borrower and consented to by the Administrative Agent and all the Lenders), as the Borrower may, upon notice received by the Administrative Agent not later than 11:00 a.m. (New York City time) on the third Business Day prior to the first day of such Interest Period, select; provided, however, that:
 - (a) if the Borrower fails to select an Interest Period, then that Interest Period will be three months;
 - (b) all Eurodollar Rate Loans comprising a Borrowing shall at all times have the same Interest Period;
- (c) if any Interest Period for a Eurodollar Rate Loan begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of such calendar month;
- (d) if any Interest Period would otherwise expire on a day which is not a Business Day, such Interest Period shall expire on the first succeeding Business Day; <u>provided</u>, <u>however</u>, that if any Interest Period for a Loan would otherwise expire on a day which is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day;
 - (e) no Interest Period in respect of any Borrowing of Loans shall be selected which extends beyond the Maturity Date; and
 - (f) the selection of Interest Periods shall be subject to the provisions of Section 2.06.

- "Internal Charter" shall mean any charter or other contract respecting the use or operations of any Collateral Rig between a Collateral Vessel-Owning Subsidiary and any Internal Charterer, to the extent such charter does not materially adversely affect the interests of the Lenders.
- "Internal Charterer" shall mean any direct or indirect Restricted Subsidiary of the Borrower controlled by the Borrower or any of its Restricted Subsidiaries (other than a Local Content Subsidiary) that is not the owner of the relevant Collateral Rig and that is party to a Drilling Contract in respect of a Collateral Rig and entitled to receive Earnings thereunder.
- "Investments" shall mean, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business, and excluding extensions of trade credit or other advances to customers on commercially reasonable terms in accordance with normal trade practices or otherwise in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Borrower or any of the Restricted Subsidiaries sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary, the Borrower will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Borrower's Investments in such Subsidiary that were not sold or disposed of in an amount determined as provided in Section 7.10(c). The acquisition by the Borrower or any of its Subsidiaries of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Borrower or such Subsidiary in such third Person that is not a Subsidiary of such Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in Section 7.10(c). Except as otherwise provided in this Agreement, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.
- "Involuntary Transfer" shall mean, with respect to any property or asset of the Borrower or any Restricted Subsidiary, (a) any damage to such property or asset that results in an insurance settlement with respect thereto on the basis of a total loss or a constructive or compromised total loss, (b) the confiscation, condemnation, requisition, appropriation or similar taking of such property or asset by any government or instrumentality or agency thereof, including by deed in lieu of condemnation, or (c) foreclosure or other enforcement of a Lien or the exercise by a holder of a Lien of any rights with respect to it.
- "ISM Code" shall mean the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organisation Assembly as Resolutions A.741 (18) and A.788 (19), as the same may be amended or supplemented from time to time (and the terms "safety management system", "Safety Management Certificate" and "Document of Compliance" have the same meanings as are given to them in the ISM Code).

- "ISPS Code" shall mean the International Ship and Port Facility Security Code constituted pursuant to resolution A.924(22) of the International Maritime Organisation ("IMO") adopted by a Diplomatic conference of the IMO on Maritime Security on 13 December 2002 and now set out in Chapter XI-2 of the Safety of Life at Sea Convention (SOLAS) 1974 (as amended) which took effect on 1 July 2004.
- "<u>Latest Maturity Date</u>" shall mean at any date of determination, the latest Maturity Date applicable to any Class of Commitments or Loans that is outstanding hereunder on such date of determination, as extended in accordance with this Agreement from time to time.
- "Lead Arrangers" shall mean Citigroup Global Markets, Inc., Goldman Sachs Lending Partners LLC, Deutsche Bank Securities Inc. and Barclays Bank PLC, in their respective capacities as joint lead arrangers, and their respective successors.
- "<u>Leaseholds</u>" of any Person shall mean all the right, title and interest of such Person as lessee or licensee in, to and under leases or licenses of land, improvements and/or fixtures.
- "Lender" shall mean each financial institution listed on <u>Annex I</u>, as well as any Person which becomes a "Lender" hereunder pursuant to Section 2.11 or 10.04(b) or pursuant to an Incremental Assumption Agreement.
- "<u>Lender Creditors</u>" shall mean the Lenders holding from time to time outstanding Loans and/or Commitments or Incremental Commitments and the Administrative Agent, each in their respective capacities.
- "Lien" shall mean with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.
 - "Loan" shall mean the Term Loans and, unless the context shall otherwise require, any Other Term Loans.
- "Loan Documents" shall mean this Agreement, each Extension Amendment, the Intercreditor Agreement, each Note, each Fee Letter, each Pledge Agreement, each Security Document, each Subsidiary Guaranty, each Asset Sale Offer to the extent relating to Loans, each Change of Control Offer, each Purchase Offer and, after the execution and delivery thereof, each additional guaranty or additional security document executed pursuant to Sections 7.07 and any amendments and waivers to any of the foregoing.
 - "Loan Parties" shall mean, collectively, the Borrower and each Subsidiary Guarantor.

- "Local Content Subsidiary" shall mean any Subsidiary of the Borrower that is a party to a Drilling Contract or otherwise holds the right to receive Earnings attributable to a Collateral Rig or any Related Assets for the purpose of satisfying any local content law or regulation or similar law or regulation.
- "Manager's Subordination Undertaking" shall mean an undertaking by any Approved Manager given or to be given to the Pari Passu Collateral Agent in form and substance reasonably satisfactory to the Pari Passu Collateral Agent.
 - " Margin Regulations" shall mean Regulations U, T and X of the Board of Governors of the Federal Reserve System.
 - "Margin Stock" shall have the meaning provided in Regulation U.
 - "Market Disruption Event" shall mean either of the following events:
- (a) at or about noon on the Interest Determination Date for the relevant Interest Period the Screen Rate is not available and none or, if there are three or more Lenders, only one of the Reference Banks supplies a rate to the Administrative Agent to determine the Eurodollar Rate for the relevant Interest Period; or
- (b) before close of business in New York on the Interest Determination Date for the relevant Interest Period, the Administrative Agent receives notifications from Lenders holding outstanding Loans at such time (but excluding any Loans purchased by the Borrower pursuant to Section 2.13) equal to at least 50% of the outstanding amount of all Loans at such time that (i) the cost to such Lenders of obtaining matching deposits in the London interbank Eurodollar market for the relevant Interest Period would be in excess of the Eurodollar Rate for such Interest Period or (ii) such Lenders are unable to obtain funding in the London interbank Eurodollar market.
- "Material Adverse Effect" shall mean (a) a material adverse effect on the operations, business, properties, or financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole, (b) a material impairment of the rights and remedies of the Pari Passu Collateral Agent, the Administrative Agent or any Lender under any Loan Document, or of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party.
- "Maturity Date" shall mean as to the applicable Loan, the Initial Maturity Date or any maturity date related to any Extension Series of Extended Loans, as applicable.
 - "Moody's" shall mean Moody's Investors Service, Inc.
 - " Naira" shall mean lawful money of the Federal Republic of Nigeria.
 - "NAIC" shall mean the National Association of Insurance Commissioners.

- "Net Income" shall mean, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however: (a) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with (i) any Asset Sale or other asset dispositions (other than in the ordinary course of business) or (ii) the disposition of any securities by such Person or any of the Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of the Restricted Subsidiaries; and (b) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss.
- "Net Proceeds" shall mean the aggregate cash proceeds and Cash Equivalents received by the Borrower or any Restricted Subsidiary in respect of any Asset Sale (including, without limitation, any cash or Cash Equivalents received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of (a) the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, sales commissions, relocation expenses incurred as a result of such Asset Sale, and taxes paid or payable as a result of such Asset Sale after taking into account any available tax credits or deductions and any tax-sharing arrangements, (b) amounts required to be applied to the repayment of Indebtedness secured by a Lien on the properties or assets that were the subject of such Asset Sale, or Indebtedness (other than Indebtedness that is subordinated in right of payment to the Term Loans or any Subsidiaries Guaranty) which must by its terms, in order to obtain a necessary consent to such Asset Sale or by applicable law, be repaid out of the proceeds from such Asset Sale and (c) any amounts to be set aside in any reserve established in accordance with GAAP or any amount placed in escrow, in either case for adjustment in respect of the sale price of such properties or assets, for indemnification obligations of the Borrower or any Restricted Subsidiary until such time as such reserve is reversed or such escrow arrangement is terminated, in which case Net Proceeds shall include only the amount of the reserve so reversed or the amount returned to the Borrower or any Restricted Subsidiary from such escrow arrangement, as the case may be.
 - "Non-Recourse Debt" shall mean Indebtedness:
- (a) as to which neither the Borrower nor any of the Restricted Subsidiaries (i) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (ii) is directly or indirectly liable as a guarantor or otherwise, or (iii) constitutes the lender;
- (b) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Borrower or any of the Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and
- (c) as to which the governing documentation provides that the lenders will not have any recourse to the stock or assets of the Borrower or any of the Restricted Subsidiaries.

For purposes of determining compliance with Section 7.11, in the event that any Non-Recourse Debt of any of the Unrestricted Subsidiaries ceases to be Non-Recourse Debt of such Unrestricted Subsidiary, such event will be deemed to constitute an incurrence of Indebtedness by a Restricted Subsidiary.

- "Note" shall have the meaning provided in Section 2.04.
- "Note Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower or any Guarantor (as defined in the 2013 Indenture) arising under the 2013 Indenture, the Senior Notes and the Additional Notes (if any), the Subsidiary Guarantees (as defined in the 2013 Indenture) and the Collateral Agreements (as defined in the 2013 Indenture) (including all principal, premium, interest, penalties, fees, charges, expenses, indemnifications, reimbursement obligations, damages, guarantees, and other liabilities or amounts payable or arising thereunder), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any such Guarantor of any proceeding in bankruptcy or insolvency law naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.
 - " Notice of Borrowing" shall have the meaning provided in Section 2.02.
- "Notice Office" shall mean the office of the Administrative Agent located at 1516 Brett Road, Ops III, New Castle, DE 19720, Attention: Citigroup Global Loans, facsimile: (212) 994-0961; email: global.loans.support@citi.com, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.
- "Obligations" shall mean all obligations, liabilities and indebtedness (including, without limitation, principal, premium, interest, fees and indemnities (including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Loan Party at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding)) of each Loan Party to the Lender Creditors, whether now existing or hereafter incurred under, arising out of, or in connection with this Agreement and the other Loan Documents to which such Loan Party is a party (including, in the case of each Loan Party that is a Subsidiary Guarantor, all such obligations, liabilities and indebtedness of such Loan Party under any Subsidiary Guaranty to which such Subsidiary Guarantor is a party) and the due performance and compliance by such Loan Party with all of the terms, conditions and agreements contained in this Agreement and in such other Loan Documents.
 - "OFAC" and "OFAC Lists" shall have the respective meanings set forth in Section 6.24.
 - "OPA" shall mean the Oil Pollution Act of 1990, as amended, 33 U.S.C. § 2701 et seq.
 - "Other Agents" shall have the meaning provided in Section 9.11.

- "Other Connection Taxes" shall mean, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).
- "Other Pari Passu Obligations" shall mean other Indebtedness of the Borrower or the Subsidiary Guarantors that is equally and ratably secured with the Pari Passu Obligations (subject to the Intercreditor Agreement) as permitted by the Pari Passu Documents and is designated by the Borrower as an Other Pari Passu Obligation pursuant to the Intercreditor Agreement.
- "Other Taxes" shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, other than any such Taxes (a) that are Other Connection Taxes imposed with respect to a Lender's assignment of all or a portion of its rights and obligations under this Agreement (other than an assignment made at the request of the Borrower pursuant to Section 2.11) or (b) that are imposed by Luxembourg (or any political subdivision thereof) as a result of any voluntary registration by a Lender of any Loan Document when such registration is neither ordered by a competent court or an official authority nor required to establish, maintain or preserve any rights of any Recipient.
 - "Other Term Loans" shall have the meaning provided in Section 2.12(a).
 - "Pari Passu Collateral Agent" shall have the meaning set forth in the Intercreditor Agreement.
- "Pari Passu Documents" shall mean, collectively, the Credit Agreement Documents, the Indenture Documents, the Loan Documents and any document or instrument evidencing or governing any Other Pari Passu Obligations.
- "<u>Pari Passu Obligations</u>" shall mean (a) the Note Obligations, (b) the Revolving Credit Obligations, (c) the Obligations, (d) all Other Pari Passu Obligations and (e) all other obligations of the Borrower and the Subsidiary Guarantors in respect of, or arising under, the Pari Passu Documents, plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Pari Passu Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding.
 - "PATRIOT Act" shall mean the USA PATRIOT Act (Title III of Pub.L. 107-56 (signed into law October 26, 2001)), as amended.
 - "Payment Default" shall have the meaning provided in Section 8.04(a).

- "Payment Office" shall mean the office of the Administrative Agent located at 1516 Brett Road, Ops III, New Castle, DE 19720, Attention: Citigroup Global Loans, facsimile: (212) 994-0961; email: global.loans.support@citi.com, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.
- "Percentage" of any Lender at any time shall mean a fraction (expressed as a percentage) the numerator of which is the amount of the Commitment (or, after the termination thereof, the outstanding principal amount of the Loan) of such Lender and the denominator of which is the aggregate amount of the Commitments (or, after the termination thereof, the aggregate outstanding principal amount of all Loans) of all of the Lenders at such time; provided that, for the avoidance of doubt, if the Borrower or any of its Affiliates purchases any Loans pursuant to Section 2.13, such Loans so purchased shall be excluded for the purposes of making a determination of the Percentage of any Lender.
- "Permitted Business" shall mean a business relating to the contracting of ultra-deepwater drilling rigs, related equipment and work crews to drill offshore wells in which the Borrower and the Restricted Subsidiaries were engaged on the Effective Date and any business reasonably related or complimentary thereto.
- "<u>Permitted Collateral Liens</u>" shall mean Liens described in clauses (a), (e), (g), (h), (i), (j), (l), (m), (n) and (o) of the definition of "Permitted Liens"; <u>provided</u> that, with respect to Liens described in clauses (a) and (j) of the definition of "Permitted Liens," to the extent such Liens encumber Collateral, the aggregate principal amount of Indebtedness (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Borrower or any Restricted Subsidiary thereunder) secured thereby shall not, at any time, exceed \$2,300,000,000.
 - " Permitted Debt" shall mean any of the following:
- (a) the Incurrence by the Borrower or any Restricted Subsidiary of Indebtedness under one or more Credit Facilities in a maximum aggregate principal amount incurred under this clause (a) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Borrower or such Restricted Subsidiary thereunder) not to exceed \$150,000,000 at any one time outstanding;
- (b) the Incurrence by the Borrower or any Restricted Subsidiary of Indebtedness under one or more Credit Facilities in a maximum aggregate principal amount incurred under this clause (b) at any one time outstanding (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Borrower or such Restricted Subsidiary thereunder), not to exceed an amount equal to the sum of (i) for each Rig for which the Borrower or a Restricted Subsidiary has entered into a contract for the construction or acquisition of such Rig but which has not yet been delivered or acquired, the greater of (1) \$500,000,000 and (2) 75% of the Rig Value for such Rig at the time any such Indebtedness is Incurred plus (ii) for each other Rig owned by the Borrower or a Restricted Subsidiary, the greater of (1) \$425,000,000 and (2) 70% of the Appraised Value for such Rig at the time any such Indebtedness is Incurred;

- (c) the Incurrence by (i) the Borrower and any Subsidiary Guarantor of Indebtedness represented by the Senior Notes (including Additional Notes) and the related guarantees by the Subsidiary Guarantors and (ii) the Borrower or any Restricted Subsidiary of Existing Indebtedness:
- (d) the Incurrence by the Borrower or any Restricted Subsidiary of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, any Indebtedness (other than intercompany Indebtedness) that was permitted by this Agreement to be Incurred pursuant to Section 7.11 or clause (c) of this definition or this clause (d);
- (e) the Incurrence by Borrower or any Restricted Subsidiary of intercompany Indebtedness between or among Borrower and any of the Restricted Subsidiaries; provided, however, that:
 - (i) if the Borrower or any Subsidiary Guarantor is the obligor on such Indebtedness and the payee is not the Borrower or a Subsidiary Guarantor, such Indebtedness must be unsecured and expressly subordinated to the prior payment in full in cash of all Obligations, in the case of the Borrower, or the applicable Subsidiary Guaranties, in the case of a Subsidiary Guarantor; and
 - (ii) upon any (1) subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than Borrower or a Restricted Subsidiary, or (2) sale or other transfer of any such Indebtedness to a Person that is not Borrower or a Restricted Subsidiary, the exception provided by this clause (e) shall no longer be applicable to such Indebtedness and such Indebtedness will be deemed to have been Incurred at the time of any such issuance, sale or transfer;
- (f) the Incurrence by the Borrower or any Restricted Subsidiary of Hedging Obligations in the ordinary course of business and not for speculative purposes;
- (g) the guarantee by the Borrower or any Restricted Subsidiary of Indebtedness of the Borrower or a Restricted Subsidiary that was permitted to be Incurred by another provision of this definition or Section 7.11; <u>provided</u> that if the Indebtedness being guaranteed is subordinated to or pari passu with the Obligations, then the guaranty shall be subordinated or pari passu, as applicable, to the same extent as the Indebtedness guaranteed;
- (h) the Incurrence by the Borrower or any Restricted Subsidiary of Indebtedness in respect of workers' compensation claims, self-insurance obligations, and performance, customs, importation and surety bonds or other Indebtedness of a like nature, in each case in the ordinary course of business;
- (i) the Incurrence by the Borrower or any Restricted Subsidiary of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;

- (j) the Incurrence by the Borrower or any Restricted Subsidiary of Indebtedness arising from agreements providing for indemnification, earn-outs, adjustment of purchase price or similar obligations, or guarantees or letters of credit, surety bonds or performance bonds securing any obligations of the Borrower or any Restricted Subsidiary pursuant to such agreements, in each case, Incurred in connection with the acquisition or disposition of any business, assets or the Capital Stock of a Subsidiary, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or the Capital Stock of a Subsidiary for the purpose of financing such acquisition; provided, however, that, in the case of a disposition, the maximum aggregate liability in respect of all such Indebtedness shall at no time exceed the gross proceeds (including non-cash proceeds (the Fair Market Value of such non-cash proceeds being measured at the time received and without giving effect to any subsequent changes in value)) actually received by the Borrower and the Restricted Subsidiaries in connection with such disposition; and
- (k) the Incurrence by the Borrower or any Restricted Subsidiary of Indebtedness not otherwise permitted pursuant to clauses (a) through (j) above that, together with any other Indebtedness Incurred pursuant to this clause (k) then outstanding, has an aggregate principal amount or accreted value, as applicable, not to exceed the greater of (i) \$100,000,000 and (ii) 2.5% of Consolidated Net Tangible Assets at such time.
 - "Permitted Holders" shall mean QPIL and its Affiliates.
 - " Permitted Investments" shall mean:
 - (a) any Investment in the Borrower or in any Restricted Subsidiary;
 - (b) any Investment in cash or Cash Equivalents;
 - (c) any Investment by the Borrower or any Restricted Subsidiary in a Person, if as a result of such Investment:
 - (i) such Person becomes a Restricted Subsidiary; or
 - (ii) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary;
- (d) any Investment made as a result of the receipt of non-cash consideration from (i) an Asset Sale that was made pursuant to and in compliance with the covenant described above under Section 7.09 or (ii) a disposition of properties or assets that does not constitute an Asset Sale;
- (e) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Borrower;
- (f) any Investments received in compromise or resolution of obligations of trade creditors or customers that were incurred in the ordinary course of business of the Borrower or any of the Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer and any Investments obtained in exchange for any such Investments:

- (g) Investments represented by Hedging Obligations permitted by clause (f) of the definition of "Permitted Debt";
- (h) any guarantee of Indebtedness or other obligations of the Borrower or any Restricted Subsidiary permitted to be incurred under this Agreement;
- (i) Investments that are in existence on the Effective Date, and any extension, modification or renewal thereof, but only to the extent not involving additional advances, contributions or other Investments of cash or other assets or other increases thereof (other than as a result of the accrual or accretion of interest or original issue discount or the issuance of pay-in-kind securities, in each case, pursuant to the terms of such Investment as in effect on the Effective Date);
- (j) Investments acquired after the Effective Date as a result of the acquisition by the Borrower or any Restricted Subsidiary of another Person, including by way of a merger, amalgamation or consolidation, to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;
 - (k) loans or advances referred to in Section 7.12(c)(v);
- (l) Investments in any Person to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and other similar deposits made in the ordinary course of business by the Borrower or any of its Restricted Subsidiaries; and
- (m) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (m) that are at the time outstanding, not to exceed the greater of (i) \$100,000,000 and (ii) 2.5% of Consolidated Net Tangible Assets.

"Permitted Jurisdiction" shall mean:

- (i) with respect to the Borrower, any of Luxembourg, the Republic of the Marshall Islands, the United States of America, any State of the United States or the District of Columbia, the Commonwealth of the Bahamas, the Commonwealth of Bermuda, the British Virgin Islands, the Cayman Islands, the Isle of Man, Hong Kong, the United Kingdom, Malta, and any other jurisdiction acceptable to the Administrative Agent and the Required Lenders; and
- (ii) with respect to any Restricted Subsidiary, any of Luxembourg, the Republic of the Marshall Islands, the United States of America, any State of the United States or the District of Columbia, the Commonwealth of the Bahamas, the Republic of Liberia, the Republic Panama of, the Commonwealth of Bermuda, the British Virgin Islands, Gibraltar, the Cayman Islands, the Isle of Man, Cyprus, Norway, Greece, Hong Kong, the United Kingdom, the Netherlands,

Malta, any member state of the European Union and any other jurisdiction generally acceptable to institutional lenders in the shipping and offshore drilling industries, as determined in good faith by the Board of Directors of the Borrower.

"Permitted Liens" shall mean:

- (a) Liens on assets of the Borrower or any of the Restricted Subsidiaries securing obligations with respect to Indebtedness Incurred (or deemed Incurred pursuant to the definition of "Existing Indebtedness") pursuant to clauses (a) or (b) of the definition of "Permitted Debt;
- (b) Liens in favor of the Borrower or any Subsidiary Guarantor or, if granted by any Person other than the Borrower or any Subsidiary Guarantor, Liens in favor of any other Restricted Subsidiary;
- (c) Liens on property of a Person existing at the time such Person is merged with or into or amalgamated or consolidated with the Borrower or any Restricted Subsidiary; <u>provided</u> that such Liens were in existence prior to such merger, amalgamation or consolidation, were not incurred in contemplation thereof and do not extend to any assets other than those of the Person merged into or amalgamated or consolidated with the Borrower or any Restricted Subsidiary;
- (d) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Borrower or any Restricted Subsidiary; provided that such Liens were in existence prior to such acquisition, and not incurred in contemplation of, such acquisition;
- (e) Liens to secure the performance of statutory obligations, surety, customs, importation or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business (including Liens on cash or Cash Equivalents to secure letters of credit, bank guarantees and similar instruments issued in support of such obligations); <u>provided</u> that, in the case of any such Liens on assets of any Subsidiary Guarantor, such Liens shall extend solely to cash and/or Cash Equivalents of such Subsidiary Guarantor;
 - (f) Liens existing on the Issue Date (other than Liens referred to in clause (a) of this definition);
- (g) Liens for taxes, assessments or governmental charges or claims (i) that are not yet delinquent or (ii) that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor;
- (h) Liens imposed by law, such as suppliers', carriers', warehousemen's, landlords' and mechanics' Liens, in each case, incurred in the ordinary course of business, for amounts (i) not more than thirty (30) days past due or (ii) which are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor;
- (i) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar

purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of the applicable Person;

- (j) Liens on the Collateral securing the Obligations or the Subsidiaries Guarantees and any Permitted Refinancing Indebtedness in respect thereof;
- (k) Liens to secure Indebtedness permitted to be Incurred under this Agreement to refinance any Indebtedness secured by Liens permitted to exist pursuant to clauses (c), (d), (f) or this clause (k) of this definition (or Liens that otherwise replace Liens referred to in such clauses); provided, however, that:
 - (i) the new Lien is limited to all or part of the same property and assets covered by the initial Lien (plus improvements and accessions to such property, or proceeds or distributions thereof) or any related after-acquired property that, pursuant to any after-acquired property clauses in written agreements pursuant to which the original Lien arose, is required to be pledged to secure the original Indebtedness (plus improvements and accessions to such property, or proceeds or distributions thereof); and
 - (ii) the Indebtedness or other obligation secured by the new Lien is not increased to any amount greater than the sum of (1) the outstanding principal amount, or, if greater, committed amount, of the original Indebtedness or obligation and (2) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;
- (l) Liens arising by reason of any judgment, attachment, decree or order of any court or other governmental authority not giving rise to an Event of Default that are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor;
- (m) Liens securing cash management obligations owing to a bank and rights of setoff in favor of a bank, imposed by law or granted in the ordinary course of business on deposit accounts maintained with such bank and cash and Cash Equivalents in such accounts;
 - (n) Liens to secure Hedging Obligations entered into in the ordinary course of business and not for speculative purposes;
- (o) Liens incurred in the ordinary course of business of the Borrower or any Restricted Subsidiary arising from Rig chartering, drydocking, maintenance, repair, refurbishment, the furnishing of supplies and bunkers to Rigs or masters', officers' or crews' wages and maritime Liens, in the case of each of the foregoing, which were not Incurred or created to secure the payment of Indebtedness;
- (p) Liens arising under a contract over goods, documents of title to goods and related documents and insurances and their proceeds, in each case in respect of documentary credit transactions entered into with customers of the Borrower and the Restricted Subsidiaries in the ordinary course of business;

- (q) Liens arising under any retention of title or conditional sale arrangement or arrangements having similar effect in respect of goods supplied in the ordinary course of business;
 - (r) Liens representing the interest in title of a lessor;
- (s) Liens on cash, Cash Equivalents or other property arising in connection with the defeasance, discharge or redemption of Indebtedness (so long as such defeasance, discharge or redemption is permitted pursuant to Section 7.10 or Liens arising under the 2013 Indenture in favor of the Trustee for its own benefit and similar Liens in favor of other trustees, agents and representatives arising under instruments governing Indebtedness permitted to be incurred hereunder, <u>provided</u> that such Liens are solely for the benefit of the trustees, agents or representatives in their capacities as such and not for the benefit of the holders of such Indebtedness; and
- (t) Liens securing Indebtedness or other obligations of the Borrower or any of the Restricted Subsidiaries, the aggregate principal amount of which obligations or Indebtedness do not exceed at any one time outstanding the greater of (i) \$100,000,000 and (ii) 2.5% of Consolidated Net Tangible Assets determined at the time of incurrence.
- "<u>Permitted Refinancing Indebtedness</u>" shall mean any Indebtedness of the Borrower or any of the Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge, in whole or in part, other Indebtedness of the Borrower or any of the Restricted Subsidiaries (other than intercompany Indebtedness) (the "<u>Refinanced Indebtedness</u>"); provided that:
- (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount of the Refinanced Indebtedness (plus all accrued interest on the Refinanced Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);
- (b) such Permitted Refinancing Indebtedness has a final maturity date that is either no earlier than the final maturity date of the Refinanced Indebtedness, or more than 90 days after the Initial Maturity Date, and has a Weighted Average Life to Maturity that is (i) equal to or greater than the Weighted Average Life to Maturity of, the Refinanced Indebtedness or (i) more than 90 days after the Initial Maturity Date;
- (c) if the Refinanced Indebtedness is (i) subordinated in right of payment to the Obligations, then such Permitted Refinancing Indebtedness is subordinated in right of payment to the Obligations, or (ii) pari passu in right of payment to the Obligations, then such Permitted Refinancing Indebtedness is subordinated or pari passu in right of payment to the Obligations, in the case of each of (i) and (ii), on terms at least as favorable to the Lenders as those contained in the documentation governing the Refinanced Indebtedness; and

- (d) if the Borrower or a Subsidiary Guarantor is the issuer of, or otherwise an obligor in respect of the Refinanced Indebtedness, such Permitted Refinancing Indebtedness is not Incurred by any Restricted Subsidiary that is not the Borrower or a Subsidiary Guarantor.
- "Person" shall mean any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, limited liability company or Governmental Authority.
- "PIDWAL" shall mean Pacific International Drilling West Africa Limited, a company organized and existing under the laws of the Federal Republic of Nigeria.
- "Plan" shall mean any pension plan as defined in Section 3(2) of ERISA, excluding any pension plan that is not subject to Titles I or IV of ERISA, which is maintained or contributed to by (or to which there is an obligation to contribute of) the Borrower or a Subsidiary of the Borrower or any ERISA Affiliate, and each such plan for the five-year period immediately following the latest date on which the Borrower, or a Subsidiary of the Borrower or any ERISA Affiliate maintained, contributed to or had an obligation to contribute to such plan.
 - "Platform" shall have the meaning provided in Section 10.03(d)(i).
- "Pledge Agreement" shall mean, collectively, the U.S. Pledge Agreement, each Foreign Pledge Agreement and any other pledge agreement executed and delivered by any Loan Party pursuant to the definition of "Collateral and Guaranty Requirements" or Section 7.07.
- "Pledge Agreement Collateral" shall mean, collectively, all "Pledged Collateral", "Pledged Assets" or an equivalent term, as applicable, as defined in each Pledge Agreement.
- "Pledged Securities" shall mean "Pledged Shares", "Shares" or an equivalent term, as applicable, as defined in the applicable Pledge Agreement.
- "Preferred Stock" as applied to the Capital Stock of any Person, shall mean Capital Stock of such Person of any class or classes (however designated) that ranks prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of such Person, to shares of Capital Stock of any other class of such Person.
- "Prime Rate" shall mean the rate which the Administrative Agent announces from time to time as its prime lending rate, the Prime Rate to change when and as such prime lending rate changes. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer.
- "Projections" shall mean the detailed projected consolidated financial statements of the Borrower and its consolidated Subsidiaries for the four fiscal years ending after the Effective Date, which projections shall (a) reflect the forecasted consolidated financial condition of the Borrower and its consolidated Subsidiaries after giving effect to the financing hereof, and (b) be prepared and approved by an Authorized Representative of the Borrower.
 - "Pro Rata Share" shall have the meaning provided in Section 4.08(b).

- "Purchase Offer" shall have the meaning provided in Section 2.13(a).
- "OPIL" shall mean Quantum Pacific International Limited, a British Virgin Islands corporation.
- "Qualified Services Contract" shall mean, with respect to any Additional Vessel acquired by, or committed to be delivered to, the Borrower or any of its Restricted Subsidiaries, a bona fide contract or series of contracts, together with any amendments, supplements or modifications thereto, that the Board of Directors of the Borrower, acting in good faith, designates as a "Qualified Services Contract" pursuant to a resolution of the Board of Directors of the Borrower, which contract or contracts:
- (a) are between the Borrower or one of its Restricted Subsidiaries, on the one hand, and a Person that is not an Affiliate of the Borrower and (i) such Person (or a parent of such Person) has a rating of either BBB- or higher from S&P or Baa3 or higher from Moody's, or if such ratings are not available, then a similar investment grade rating from another nationally recognized statistical rating agency, (ii) such contract is supported by letters of credit, performance bonds or guarantees from a Person or its parent that has an investment grade rating as described in the preceding subclause (i) of this clause (a), or (iii) such contract provides for a lockbox or similar arrangements or direct payment to the Borrower or its Restricted Subsidiary, as the case may be, by a Person with (or a Person whose parent has) such an investment grade rating, for the full amount of the contracted payments due over the four-quarter reference period considered in calculating Consolidated Cash Flow:
- (b) provide for services to be performed by the Borrower or one or more of its Restricted Subsidiaries involving the use of such Additional Vessel by the Borrower or one or more of its Restricted Subsidiaries, in either case for a minimum aggregate period of at least one year;
 - (c) provide for a fixed or minimum dayrate or fixed rate for such Additional Vessel covering all the period in (b) above; and
- (d) for purposes of the covenant described under Section 7.11 provide that revenues from such Qualified Services Contract are to be received by the Borrower or any of the Restricted Subsidiaries within one (1) year of (i) delivery of the related Additional Vessel and (ii) the Incurrence of any Indebtedness pursuant to such clause.
- "Quarterly Payment Date" shall mean the last Business Day of each March, June, September and December occurring after the Effective Date, commencing on June 30, 2013.
- "Ready for Sea Cost" shall mean, with respect to a Rig to be acquired by the Borrower or any Restricted Subsidiary, the aggregate amount of all expenditures Incurred to acquire or construct and bring such Rig to the condition and location necessary for its intended use, including any and all inspections, appraisals, repairs, modifications, additions, permits and licenses in connection with such acquisition or lease.
- "Real Property" of any Person shall mean all the right, title and interest of such Person in and to land, improvements and fixtures, including Leaseholds.

- "Recipient" shall mean (a) the Administrative Agent and (b) any Lender, as applicable.
- "Reference Banks" shall mean Citibank, N.A., Deutsche Bank AG New York Branch and Barclays Bank PLC.
- "Refinancing" shall mean the repayment in full of the Existing PFA and the Temporary Importation Bond Facilities with the proceeds of the Senior Notes, the Term Loans and the Revolving Facility and the release and termination of all guarantees and security interests thereunder.
 - "Register" shall have the meaning provided in Section 10.15.
- "Regulation D" shall mean Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.
- "Regulation T" shall mean Regulation T of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.
- "Regulation U" shall mean Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.
- "Regulation X" shall mean Regulation X of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.
- "Related Assets" shall mean, with respect to any Collateral Rig, (a) proceeds of any insurance policies and contracts from time to time in force with respect to such Collateral Rig, (b) any requisition compensation payable in respect of any compulsory acquisition of such Collateral Rig, (c) any Earnings derived from the use or operation of such Collateral Rig (other than Earnings payable to a Local Content Subsidiary) and/or any account to which such Earnings are deposited, (d) any charters, operating leases, Rig purchase options and related agreements with respect to such Collateral Rig entered into, and any security or guarantee in respect of the charterer's or lessee's obligations under such charter, lease, Rig purchase option or agreement and (e) any security interest in, or agreement or assignment relating to, any of the foregoing or any mortgage in respect of such Collateral Rig; provided that Related Assets will not include any Excluded Property.
- "Release" shall mean any disposing, discharging, injecting, spilling, pumping, leaking, leaching, dumping, emitting, escaping, emptying, pouring, seeping, migrating, into, or upon the environment, including any land or water or air.
- "Relevant Business Day" shall mean, when used in connection with the creation of a Lien on any asset, any Business Day that is not a day on which banking institutions in any jurisdiction the laws of which are relevant to the creation of such Lien are authorized or required by law to close.

- "Replaced Lender" shall have the meaning provided in Section 2.11.
- "Replacement Lender" shall have the meaning provided in Section 2.11.
- "Representative" shall have the meaning provided in Section 4.08(d).
- "Required Lenders" shall mean, at any time, Lenders the sum of whose outstanding Commitments (or, after the termination thereof, outstanding principal amount of Loans) at such time represent an amount greater than 50% of the aggregate outstanding Commitments (or after the termination thereof, the aggregate outstanding principal amount of all Loans) of all Lenders at such time; provided that (i) for the avoidance of doubt, if the Borrower or any of its Subsidiaries purchases any Loans pursuant to Section 2.13, such purchased Loans shall be excluded for the purposes of making a determination of Required Lenders and (ii) the Loans and/or Commitments of any Affiliated Lender shall be excluded for purposes of making a determination of Required Lenders.
 - " Restricted Investment " shall mean any Investment other than a Permitted Investment.
 - "Restricted Payment" shall mean any of the following:
- (a) any declaration or payment of any dividend or any other payment or distribution on account of Equity Interests of the Borrower or any Restricted Subsidiary (including, without limitation, any payment in connection with any merger, consolidation or amalgamation involving the Borrower or any of the Restricted Subsidiaries) or to the direct or indirect holders of the Borrower's or any of the Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Borrower and other than dividends or distributions payable to the Borrower or any other Restricted Subsidiary);
- (b) any purchase, repurchase, redemption, retirement or other acquisition for value (including, without limitation, in connection with any merger, consolidation or amalgamation involving the Borrower) of any Equity Interests of the Borrower held by any Person (other than any such Equity Interests held by the Borrower or any Restricted Subsidiary) or of any Equity Interests of any Restricted Subsidiary held by an affiliate of the Borrower (other than Equity Interests held by the Borrower or any Restricted Subsidiary) (in each case other than in exchange for Equity Interests of the Borrower that do not constitute Disqualified Stock);
- (c) any principal payment on or with respect to, or purchase, redemption, defeasance or other acquisition or retirement for value of any Indebtedness of the Borrower or any Subsidiary Guarantor that is contractually subordinated to the Loans or to any Subsidiary Guaranty (excluding any intercompany Indebtedness between or among the Borrower and any of the Restricted Subsidiaries), except the purchase, redemption, defeasance, repurchase or other acquisition of such Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year after the date of purchase, repurchase, redemption, defeasance or acquisition, and the payment of principal of such Indebtedness at the Stated Maturity thereof; or

- (d) any Restricted Investment.
- "Restricted Subsidiary" shall mean all Subsidiaries of the Borrower other than Unrestricted Subsidiaries.
- "Returns" shall have the meaning provided in Section 6.09.
- "Revolving Credit Agent" shall mean Citibank, N.A., in its capacity as administrative agent under the Revolving Credit Agreement, together with its successors and permitted assigns.
- "Revolving Credit Agreement" shall mean the Credit Agreement, dated as of June 3, 2013, among the Borrower, the lenders party hereto from time to time, the Revolving Credit Agent and Citibank, N.A. as initial issuing lender, as amended, restated, modified, renewed, refunded, replaced or refinanced, from time to time, including to increase the amount permitted to be borrowed thereunder or to add or change agents or lenders.
- "Revolving Credit Obligations" shall mean, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of the Borrower and the Subsidiary Guarantors under the Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed \$600,000,000 (excluding from such cap any increases in the amount of Obligations resulting from fluctuations in exchange rates, it being understood that the principal amount of Revolving Credit Obligations may exceed \$600,000,000 as a result of the issuance of letters of credit in foreign currencies, and that such incremental amount shall constitute Revolving Credit Obligations), plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Other Obligations (as defined in the Revolving Credit Agreement).
- "Revolving Facility" shall mean a revolving loan or revolving loans made and any letters of credit extended to the Borrower under the Revolving Credit Agreement.
- "Rig" shall mean, collectively, offshore drilling rigs, including, semisubmersibles, drillships, jack-ups, semisubmersible tender assist vessels and submersible rigs, owned by the Borrower and/or any Subsidiary of the Borrower, and, individually, any of such rigs.
- "Rig Value" shall mean, with respect to each Rig, the aggregate contract price for the acquisition or construction of such Rig, in each case together with all related spares, equipment and any additions or improvements thereto (or the acquisition of the Capital Stock of any Person owning such Rig), as applicable, plus any Ready for Sea Cost with respect to such Rig.
 - "S&P" shall mean Standard & Poor's Ratings Services.
- "Sale and Lease-Back Transaction" shall mean an arrangement relating to property now owned or hereafter acquired whereby the Borrower or a Restricted Subsidiary transfers such property to a Person and leases it from such Person.

- "Screen Rate" shall have the meaning specified in the definition of Eurodollar Rate.
- "SEC" shall mean the U.S. Securities and Exchange Commission.
- "Secured Obligations" shall mean (a) the Obligations, (b) any and all sums advanced by the Pari Passu Collateral Agent or the Administrative Agent in order to preserve the Collateral or preserve its security interest in the Collateral and (c) in the event of any proceeding for the collection or enforcement of any indebtedness, obligations or liabilities of the Loan Parties referred to in clause (a) above, after an Event of Default shall have occurred and be continuing, the reasonable expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Pari Passu Collateral Agent of its rights hereunder or under any Security Document, together with reasonable attorneys' fees and court costs.
 - "Securities Act" shall mean the Securities Act of 1933, as amended.
 - "Security Agreement Collateral" shall mean, collectively, all "Collateral" as defined in each U.S. Security Agreement.
- "Security Documents" shall mean the Intercreditor Agreement, each Pledge Agreement, each U.S. Security Agreement, each Assignment of Insurance Proceeds, each Assignment of Earnings, each Assignment of Management Agreement, each Assignment of Internal Charter, each Collateral Rig Mortgage, each control agreement and other security document required to be delivered pursuant to the definition of "Collateral and Guaranty Requirements" and each additional security document delivered pursuant to Section 7.07.
 - " Senior Notes" shall mean the Borrower's 5.375% senior secured notes due 2020, issued under the 2013 Indenture.
 - "Specified Existing Loan Class" shall have the meaning provided in Section 2.14(a).
- "SSCF" shall mean that certain Senior Secured Credit Facility Agreement, dated as of February 19, 2013, among Pacific Sharav S.à.r.l. and Pacific Drilling VII Limited, as borrowers, the Borrower, as guarantor, and the arrangers, lenders and agents named therein, including any related notes, guarantees, collateral documents, mortgages, instruments and agreements executed in connection therewith, and, in each case, as amended, restated, modified, renewed, refunded, replaced in any manner (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors and including with additional or different lenders) in whole or in part from time to time.
- "Significant Subsidiary" means any Restricted Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the U.S. Securities Act, as such Regulation is in effect on the Effective Date, provided, however, that notwithstanding anything to the contrary in this Agreement, each Collateral Vessel-Owning Subsidiary shall be a Significant Subsidiary at all times.

- "Stated Maturity" shall mean, with respect to any installment of interest or principal on any item or series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the documentation governing such Indebtedness as of the Effective Date or, if such item or series is Incurred after the Effective Date, the date such item or series is Incurred.
- "Subsidiaries Guaranty" shall mean and include the U.S. Subsidiary Guaranty, each Foreign Subsidiary Guaranty and any other guaranty executed and delivered by any Subsidiary Guarantor pursuant to the definition of "Collateral and Guaranty Requirements" or any of Section 7.07.
 - "Subsidiary" shall mean, with respect to any specified Person:
- (a) any corporation, limited liability company, association or other business entity (other than a partnership) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, limited liability company, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and
- (b) any partnership of which (i) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person (or a combination thereof), whether in the form of general, special or limited partnership interests or otherwise, or (ii) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.
- "Subsidiary Guarantor" shall mean (a) each Collateral Vessel-Owning Subsidiary, (b) each Subsidiary (other than Unrestricted Subsidiaries, Inactive Subsidiaries and such Subsidiaries by which a guaranty would be prohibited by applicable law, for so long as such prohibition is in effect) of the Collateral Vessel-Owning Subsidiaries that is required to become a party to a Subsidiary Guaranty pursuant to the definition of "Collateral and Guaranty Requirements" or Section 7.07, (c) each Equity-Owning Subsidiary and (d) each Internal Charterer.
 - "Successor Borrower" shall have the meaning provided in Section 7.09(a)(i).
 - "Successor Guarantor" shall have the meaning provided in Section 7.09(b).
- "Taxes" shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.
- "Temporary Importation Bond Facilities" shall mean, (a) the Letter of Credit Facility and Guaranty Agreement for Standby Letter of Credit, dated as of April 19, 2012, among Pacific Scirocco Ltd., Pacific Drilling (Gibraltar) Limited, Pacific Drilling Limited and Pacific

- Drilling S.A. and the arrangers, lenders and agents named therein and (b) the Letter of Credit Facility and Guaranty Agreement for Standby Letter of Credit, dated as of April 19, 2012, among Pacific Bora Ltd., Pacific Drilling (Gibraltar) Limited, Pacific Drilling Limited and Pacific Drilling S.A. and the arrangers, lenders and agents named therein.
- "<u>Term Loan Commitments</u>" shall mean, for each Lender, the amount set forth opposite such Lender's name in <u>Annex I</u> directly below the column entitled "Commitment".
- "Term Loan Percentage" of any Lender at any time shall mean a fraction (expressed as a percentage) the numerator of which is the Term Loan Commitment of such Lender and the denominator of which is the Term Loan Commitments of all of the Lenders at such time, provided that if the Percentage of any Lender is to be determined after the Term Loan Commitments have been terminated, then the Percentage of such Lender shall be determined immediately prior (and without giving effect) to such termination.
 - "Term Loan Repayment Amount" shall have the meaning provided in Section 4.05(a).
 - "Term Loans" shall have the meaning provided in Section 2.01.
- "Transaction" shall mean, collectively, (a) the consummation of the Refinancing, (b) the entering into of the Loan Documents and (c) the payment of fees and expenses in connection with the foregoing.
- "Trustee" shall mean Deutsche Bank Trust Company Americas, in its capacity as trustee under the 2013 Indenture, together with its successors and assigns in such capacity.
 - "Type" shall mean a Base Rate Loan or a Eurodollar Rate Loan.
 - "UCC" shall mean the Uniform Commercial Code as from time to time in effect in the relevant jurisdiction.
 - "United States" and "U.S." shall each mean the United States of America.
- "<u>Unrestricted Subsidiary</u>" shall mean (a) any Subsidiary of the Borrower which at the time of determination is an Unrestricted Subsidiary (as designated by the Borrower pursuant to Section 7.15); and (b) any Subsidiary of an Unrestricted Subsidiary.
 - " U.S. Pledge Agreement" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - " U.S. Security Agreement" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - "U.S. Subsidiary Guaranty" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".

- "Voting Stock" of any specified Person as of any date shall mean the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.
- "Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.
 - " Withholding Agent" shall mean any Loan Party and the Administrative Agent.

1.02 Terms Generally; Accounting Terms; GAAP

- (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Loan Documents or any certificate or other document made or delivered pursuant hereto or thereto
- (b) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change in GAAP occurring after the Effective Date or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any of its Subsidiaries at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.
- (c) The words "include," "includes" and "including" as used herein shall be deemed to be followed by the phrase, "without limitation."
- (d) The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.

- (e) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.
- (f) Unless otherwise expressly provided herein, (a) references to formation documents, governing documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent refinancings, replacements, amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any law, statute or regulation shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such law, statute or regulation.

SECTION 2. Amount and Terms of Term Loans.

2.01 The Loans.

- (a) Subject to the terms and conditions set forth herein, each Lender severally agrees to make a loan (each, a "<u>Term Loan</u>" and collectively, the "<u>Term Loans</u>") to the Borrower on the Effective Date in an aggregate principal amount equal to such Lender's Commitment. The Borrower may make only one borrowing of Term Loans which shall consist of Term Loans made simultaneously by the Lenders on the Effective Date in accordance with their respective Percentage. The Term Loans: (i) shall be denominated in Dollars and (ii) shall bear interest in accordance with Section 2.06. Amounts borrowed under this Section 2.01 and repaid or prepaid may not be reborrowed.
- (b) Notwithstanding anything to the contrary contained herein (and without affecting any other provision hereof), if a Lender elects pursuant to Section 3.01(b) to have an original issue discount apply to its Term Loans, the funded portion of the Term Loan to be made on the Effective Date by such Lender (i.e., the amount advanced by such Lender to the Borrower on the Effective Date) shall be equal to 99.50% of the principal amount of such Term Loan (it being agreed that the full principal amount of each such Term Loan will be deemed outstanding on the Effective Date and the Borrower shall be obligated to repay 100% of the principal amount of each such Term Loan as provided hereunder)

2.02 Notice of Borrowing.

(a) When the Borrower desires to incur the Loans hereunder, an Authorized Representative of the Borrower shall give the Administrative Agent at the Notice Office (i) at least three Business Days' prior written notice (or telephonic notice promptly confirmed in writing) of each Term Loan to be incurred hereunder, <u>provided</u> that such notice shall be deemed to have been given on a certain day only if given before 11:00 a.m. (New York time) on such day. Such written notice or written confirmation of telephonic notice (a "Notice of Borrowing"), except as otherwise expressly provided in Section 2.08, shall be irrevocable and shall be given in writing by the Borrower in the form of Exhibit K, appropriately completed to specify (i) the aggregate principal amount of the Loans to be incurred pursuant to the Borrowing, (ii) the date of the Borrowing (which shall be a Business Day and the Effective Date), (iii) the Type of Loans

comprising the Borrowing, (iv) in the case of Eurodollar Rate Loans, the initial Interest Period to be applicable to such Eurodollar Rate Loans, and (v) to which account the proceeds of such Loans are to be deposited. The Administrative Agent shall promptly give each Lender notice of the Borrowing, of such Lender's proportionate share thereof and of the other matters required by the immediately preceding sentence to be specified in the Notice of Borrowing. If the Borrower fails to specify a Type of Loan in the Notice of Borrowing, then the Loans shall be made as Base Rate Loans.

- (b) Without in any way limiting the obligation of the Borrower to confirm in writing any telephonic notice of any Borrowing or prepayment of Loans, the Administrative Agent may act without liability upon the basis of telephonic notice of the Borrowing or a prepayment, as the case may be, believed by the Administrative Agent in good faith to be from an Authorized Representative of the Borrower prior to receipt of written confirmation. In each such case, the Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of such telephonic notice of the Borrowing or prepayment of Loans, as the case may be, absent manifest error.
- 2.03 <u>Disbursement of Funds</u>. No later than 11:00 a.m. (New York time) on the date specified in the Notice of Borrowing, each Lender will make available its Percentage of the Borrowing. All such amounts will be made available in Dollars and in immediately available funds at the Payment Office and the Administrative Agent will make available to the Borrower (prior to 1:00 p.m. (New York time) on the Effective Date to the extent of funds actually received by the Administrative Agent prior to 11:00 a.m. (New York time) on such day) at the Payment Office, in the account specified in the Notice of Borrowing, the aggregate of the amounts so made available by the Lenders. Unless the Administrative Agent shall have been notified by any Lender prior to the date of the Borrowing that such Lender does not intend to make available to the Administrative Agent such Lender's portion of the Borrowing, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on the date of the Borrowing and the Administrative Agent may in its sole discretion (but shall not, for the avoidance of doubt, be obligated to), in reliance upon such assumption, make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and such amount is advanced to the Borrower by the Administrative Agent, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower and the Borrower shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent also shall be entitled to recover on demand from such Lender or the Borrower, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower until the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if recovered from such Lender, the overnight Federal Funds Rate for the first three days and at the interest rate otherwise applicable to such Loans for each day thereafter and (ii) if recovered from the Borrower, the rate of interest applicable to the Borrowing, as determined pursuant to Section 2.06. Nothing in this Section 2.03 shall be deemed to relieve any Lender from its obligation to make Loans hereunder or to prejudice any rights which the Borrower may have against any Lender as a result of any failure by such Lender to make Loans hereunder.

- $2.04 \, \underline{\text{Notes}}$. (a) The Borrower's obligation to pay the principal of, and interest on, the Loans made by each Lender shall be evidenced in the Register maintained by the Administrative Agent pursuant to Section 10.15 and shall, if requested by such Lender as provided below, also be evidenced by a promissory note duly executed and delivered by the Borrower substantially in the form of $\underline{\text{Exhibit L}}$, with blanks appropriately completed in conformity herewith (each a " $\underline{\text{Note}}$ " and, collectively, the " $\underline{\text{Notes}}$ ").
- (b) The Note issued to each Lender that has made a Loan shall (i) be executed by the Borrower, (ii) be payable to such Lender or its registered assigns and be dated the Effective Date, (iii) be in a stated principal amount equal to the Loan made by such Lender and be payable in the outstanding principal amount of the Loan evidenced thereby, (iv) mature on the Maturity Date or Incremental Maturity Date, as applicable, (v) bear interest as provided in Section 2.06, (vi) be subject to voluntary prepayment and mandatory repayment as provided in Sections 4.01 and 4.02 and (vii) be entitled to the benefits of this Agreement and the other Loan Documents.
- (c) Each Lender will note on its internal records the amount of the Loan made by it and each payment in respect thereof and, prior to the surrender of a Note pursuant to Section 10.15, will endorse on the reverse side thereof the outstanding principal amount of Loans evidenced thereby. Failure to make any such notation or any error in such notation or endorsement shall not affect the Borrower's obligations in respect of such Loans.
- (d) Notwithstanding anything to the contrary contained above in this Section 2.04 or elsewhere in this Agreement, Notes shall only be delivered to Lenders which at any time specifically request the delivery of such Notes. No failure of any Lender to request or obtain a Note evidencing its Loans to the Borrower shall affect or in any manner impair the obligations of the Borrower to pay the Loans (and all related Obligations) incurred by the Borrower which would otherwise be evidenced thereby in accordance with the requirements of this Agreement, and shall not in any way affect the security or guaranties therefor provided pursuant to the various Loan Documents. Any Lender which does not have a Note evidencing its outstanding Loans shall in no event be required to make the notations otherwise described in preceding clause (c). At any time when any Lender requests the delivery of a Note to evidence any of its Loans, the Borrower shall (at its expense) promptly execute and deliver to the respective Lender the requested Note in the appropriate amount or amounts to evidence such Loans.
- 2.05 <u>Pro Rata Borrowings</u>. The Borrowings of Loans under this Agreement shall be incurred from the Lenders pro rata on the basis of their Commitments. It is understood that no Lender shall be responsible for any default by any other Lender of its obligation to make a Loan hereunder and that each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to make its Loans hereunder.

2.06 Interest.

- (a) The Borrower agrees to pay interest in respect of the unpaid principal amount of each Loan from the date of Borrowing thereof until such principal amount shall be paid in full, at the following rates per annum:
 - (i) Base Rate Loans. During such periods as such Loan is a Base Rate Loan, a rate per annum equal at all times to the sum of (x) the Base Rate in effect from time to time plus (y) the Applicable Margin in effect from time to time, payable in arrears

quarterly on each Quarterly Payment Date, on the date such Base Rate Loan shall be Converted and on the date of any repayment or prepayment (on the amount repaid or prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.

- (ii) Eurodollar Rate Loans. During such periods as such Loan is a Eurodollar Rate Loan, a rate per annum equal at all times during each Interest Period for such Loan to the sum of (1) the Eurodollar Rate for such Interest Period for such Loan plus (2) the Applicable Margin in effect from time to time, payable in arrears on the last day of such Interest Period and, if such Interest Period has a duration of more than three (3) months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period, on the date such Eurodollar Rate Loan shall be Converted and on the date of any repayment or prepayment (on the amount repaid or prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.
- (b) Upon the occurrence and during the continuance of an Event of Default, the Borrower shall pay interest ("Default Interest") on (i) the overdue outstanding principal amount of each Loan, payable in arrears on the dates referred to in clause (i) or (ii) of Section 2.06(a), as applicable, and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Loan pursuant to clause (i) or (ii) of Section 2.06(a), as applicable and (ii) to the fullest extent permitted by applicable law, the amount of any overdue interest, fee or other amount payable under this Agreement or any other Loan Document to any Agent or any Lender Party that is not paid when due, from the date such amount shall be due until such amount shall be paid in full, payable in arrears on the date such amount shall be paid in full and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on Base Rate Loans pursuant to clause (i) of Section 2.06(a).
- (c) Promptly after receipt of the Notice of Borrowing pursuant to Section 2.02, a notice of Conversion pursuant to Section 2.07 or a notice of selection of an Interest Period pursuant to the definition thereof, the Administrative Agent shall give notice to the Borrower and each Lender of the applicable Interest Period and the applicable interest rate determined by the Administrative Agent for purposes of clause (i) or (ii) of Section 2.06(a), and the applicable rate, if any, furnished by each Reference Bank for the purpose of determining the applicable interest rate under clause (a)(ii) above. Each such determination shall, absent manifest error, be final and conclusive and binding on all parties hereto.
- (d) (i) Each Reference Bank agrees to furnish to the Administrative Agent timely information for the purpose of determining each Eurodollar Rate. If any one (1) or more of the Reference Banks shall not furnish such timely information to the Administrative Agent for the purpose of determining any such interest rate, the Administrative Agent shall determine such interest rate on the basis of timely information furnished by the remaining Reference Banks.
 - (ii) If fewer than two Reference Banks are able to furnish timely information to the Administrative Agent for determining the Eurodollar Rate for any Eurodollar Rate Loans,

- (1) the Administrative Agent shall forthwith notify the Borrower and the Lenders that the interest rate cannot be determined for such Eurodollar Rate Loans,
- (2) each such Loan will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan (or if such Loan is then a Base Rate Loan, will continue as a Base Rate Loan), and
- (3) the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist.

2.07 Conversion of Loans.

- (a) Optional. The Borrower may on any Business Day, upon notice given to the Administrative Agent not later than 11:00 A.M. (New York City time) on the third Business Day prior to the date of the proposed Conversion and subject to the provisions of Sections 2.06 and 2.08, Convert all or any portion of the Loans of one Type comprising the same Borrowing into Loans of the other Type; provided, however, that any Conversion of Eurodollar Rate Loans into Base Rate Loans shall be made only on the last day of an Interest Period for such Eurodollar Rate Loans, any Conversion of Base Rate Loans into Eurodollar Rate Loans shall be in an amount not less than (i) with respect to Eurodollar Rate Loans, \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof, no Conversion of any Loans shall result in more separate Borrowings than permitted under Section 2.01 or 2.12, as applicable, and each Conversion of Loans comprising part of the same Borrowing shall be made ratably among the Lenders in accordance with their Commitments. Each such notice of Conversion shall, within the restrictions specified above, specify (i) the date of such Conversion, (ii) the identity, amount and Class of the Loans to be Converted and (iii) if such Conversion is into Eurodollar Rate Loans, the duration of the initial Interest Period for such Loans. Each notice of Conversion shall be irrevocable and binding on the Borrower.
- (b) <u>Mandatory</u>. (i) If the Borrower shall fail to select the duration of any Interest Period for any Eurodollar Rate Loans in accordance with the provisions contained in the definition of "Interest Period" in Section 1.01, the Administrative Agent will forthwith so notify the Borrower and the Lenders, whereupon each such Eurodollar Rate Loan will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan.
 - (ii) Upon the occurrence and during the continuance of any Event of Default, (in the case of an Event of Default under Sections 8.01 and 8.08, automatically, and in the case of any other Event of Default, upon the request of the Required Lenders), (1) each Eurodollar Rate Loan will on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan and (2) the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended.

2.08 Increased Costs, Illegality, Market Disruption, etc. (a) (i) In the event that any Recipient shall have determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) at any time, that such Recipient shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Loan because of, without duplication, the introduction of or effectiveness of or any change since the Effective Date in any applicable law, treaty or governmental rule, regulation, order, guideline, directive or request (whether or not having the force of law) concerning capital adequacy, liquidity requirements or changes therein or otherwise or in the interpretation or administration thereof and including the introduction of any new law or governmental rule, regulation, order, guideline or request, such as, for example, but not limited to: (1) any such introduction, effectiveness or change subjecting any Recipient to any Tax, duty or other charge with respect to any Loan or Notes, Commitment, or deposits, reserves, other liabilities or capital attributable thereto or its obligation to make such Loan or a change in the basis of taxation of payment to any Recipient of the principal of or interest on the Loans or the Notes or any other amounts payable hereunder (other than any change in the rate or basis of taxation of any Excluded Tax), but without duplication of any amounts payable in respect of Taxes or Indemnified Taxes pursuant to Section 4.07, (2) a change in official reserve requirements but, in all events, excluding reserves required under Regulation D to the extent included in the computation of the Eurodollar Rate or (3) a change that will have the effect of increasing the amount of capital adequacy or liquidity required or requested by an applicable governmental regulatory authority to be maintained by such Lender, or any corporation controlling such Lender, based on the existence of such Lender's Commitments or Loans made hereunder o

(ii) at any time, that the making or continuance of any Eurodollar Rate Loan has been made unlawful by any law or governmental rule, regulation or order or any central bank or other governmental body or authority shall assert that it is unlawful:

then, and in any such event, such Recipient shall promptly give notice (by telephone confirmed in writing) to the Borrower and, in the case of clause (ii) above, to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the Lenders). Thereafter (1) in the case of clause (i) above, the Borrower agrees (to the extent applicable), to pay to such Recipient, upon its written demand therefor, such additional amounts as shall be required to compensate such Recipient or such other corporation for the increased costs or reductions to such Recipient or such other corporation and (2) in the case of clause (ii) above, the Borrower shall take one of the actions specified in Section 2.08(b). In determining such additional amounts, each Recipient will act reasonably and in good faith and will use averaging and attribution methods which are reasonable; provided that such Recipient's determination of compensation owing under this Section 2.08(a) shall, absent manifest error be final and conclusive and binding on all the parties hereto. Each Recipient, upon determining that any additional amounts will be payable pursuant to this Section 2.08(a), will give prompt written notice thereof to the Borrower, which notice shall show in reasonable detail the basis for the calculation of such additional amounts. In the case of the circumstances described in Section 2.08(a)(ii), the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower that such Lender has determined that the circumstances causing such suspension no longer exist.

- (b) At any time that any Loan is affected by the circumstances described in Section 2.08(a)(i) or (ii), the Borrower may (and in the case of a Loan affected by the circumstances described in Section 2.08(a)(ii) shall) either (i) if the affected Loan is then being made initially, cancel the Borrowing by giving the Administrative Agent telephonic notice (confirmed in writing) on the same date or the next Business Day that the Borrower was notified by the affected Lender or the Administrative Agent pursuant to Section 2.8(a)(i) or (ii) or (ii) if the affected Loan is then outstanding, upon at least three Business Days' written notice to the Administrative Agent, in the case of any Loan, repay the Borrowing (within the time period required by the applicable law or governmental rule, governmental regulation or governmental order) in full in accordance with the applicable requirements of Section 4.02; <u>provided</u> that prior to such repayment, in the case of any Eurodollar Rate Loan that is affected by the circumstances described in Section 2.08(a)(ii), such Loans will automatically, upon delivery of such notice, Convert into a Base Rate Loan; <u>provided</u>, <u>further</u>, that if more than one Lender is affected at any time, then all affected Lenders must be treated the same pursuant to this Section 2.08(b).
- (c) If a Market Disruption Event occurs in relation to a Eurodollar Rate Loan for any Interest Period, then the Administrative Agent shall forthwith so notify the Borrower and the Lenders, whereupon (i) each such Eurodollar Rate Loan will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan and (ii) the obligation of the Lenders to Convert Loans into, Eurodollar Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower that such Lenders have determined that the circumstances causing such suspension no longer exist.
- (d) If any Reference Bank ceases to be a Lender under this Agreement, (i) it shall cease to be a Reference Bank and (ii) the Administrative Agent shall, with the approval (which shall not be unreasonably withheld) of the Borrower, nominate as soon as reasonably practicable another Lender to be a Reference Bank in place of such Reference Bank.
- (e) Notwithstanding anything in this Agreement to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a change after the Effective Date in an applicable law or governmental rule, regulation or order, regardless of the date enacted, adopted, issued or implemented for all purposes under or in connection with this Agreement (including this Section 2.08).
- 2.09 <u>Compensation</u>. The Borrower agrees to compensate each Lender, upon its written request (which request shall set forth in reasonable detail the basis for requesting such compensation), for all reasonable losses, expenses and liabilities (including, without limitation, any loss, expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds required by such Lender to fund its Eurodollar Rate Loans but excluding loss of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender or the Administrative Agent) a Eurodollar Rate Borrowing does not occur on a date specified therefor in the applicable Notice of Borrowing (whether or not withdrawn by the Borrower or deemed withdrawn pursuant to Section 2.08(a)); (ii) if any prepayment or

repayment (including any prepayment or repayment made pursuant to Section 2.08(a), Section 4.01, Section 4.02 or as a result of an acceleration of the Loans pursuant to Section 8) or assignment of any of its Eurodollar Rate Loans pursuant to Section 2.11, occurs on a date which is not the last day of an Interest Period with respect thereto; (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by the Borrower; or (iv) as a consequence of any other default by the Borrower to repay Eurodollar Rate Loans or make payment on any Note held by such Lender when required by the terms of this Agreement.

- 2.10 Change of Lending Office; Limitation on Additional Amounts. Each Lender agrees that upon the occurrence of any event giving rise to the operation of Section 2.08(a), 2.08(b) or Section 4.07(b) or (d) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event, <u>provided</u> that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of such Section. Nothing in this Section 2.10 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.08 and 4.07.
- 2.11 Replacement of Lenders. (x) If any Lender defaults in its obligations to make Loans, (i) upon the occurrence of any event giving rise to the operation of Section 2.08(a) or Section 4.07(b) or (d) with respect to any Lender which results in such Lender charging to the Borrower increased costs in excess of those being generally charged by the other Lenders, or (ii) as provided in Section 10.12(b) in the case of certain refusals by a Lender to consent to certain proposed changes, waivers, discharges or terminations with respect to this Agreement which have been approved by the Required Lenders, the Borrower shall have the right, if no Default or Event of Default then exists (or, in the case of preceding clause (ii), will exist immediately after giving effect to the respective replacement), to replace such Lender (the "Replaced Lender") with one or more other Eligible Transferee or Eligible Transferees (collectively, the "Replacement Lender") and each of whom shall be required to be reasonably acceptable to the Administrative Agent if such replacement would (in the case of the preceding clause (i)) result in a reduction of the increased costs charged to the Borrower, provided that:
 - (i) at the time of any replacement pursuant to this Section 2.11, the Replacement Lender shall enter into one or more Assignment and Assumption Agreements pursuant to Section 10.04(b) (and with all fees payable pursuant to said Section 10.04(b) to be paid by the Replacement Lender) pursuant to which the Replacement Lender shall acquire all of the Commitments and outstanding Loans of the Replaced Lender and, in connection therewith, shall pay to the Replaced Lender in respect thereof an amount equal to an amount equal to the principal of, and all accrued and unpaid interest on, all outstanding Loans of the Replaced Lender with respect to which such Replaced Lender is being replaced;
 - (ii) all obligations of the Borrower due and owing to the Replaced Lender at such time (other than those specifically described in clause (i) above in respect of which the assignment purchase price has been, or is concurrently being, paid) shall be paid in full to such Replaced Lender concurrently with such replacement.

Upon the execution of the respective Assignment and Assumption Agreement, the payment of amounts referred to in clauses (i) and (ii) above and, if so requested by the Replacement Lender, delivery to the Replacement Lender of the appropriate Note or Notes executed by the Borrower, the Replacement Lender shall become a Lender hereunder and the Replaced Lender shall cease to constitute a Lender hereunder, except with respect to indemnification provisions under this Agreement (including, without limitation, Sections 2.08, 2.07, 4.07, 9.06 and 10.01), which shall survive as to such Replaced Lender.

2.12 Incremental Commitments.

(a) The Borrower may on one or more occasions, by written notice to the Administrative Agent, request Incremental Commitments from one or more Incremental Lenders, which may include any existing Lender; provided that (i) each Incremental Lender shall be subject to the approval of the Administrative Agent (which approval shall not be unreasonably withheld or delayed) and (ii) the aggregate amount of Incremental Commitments shall not exceed the Incremental Commitment Amount. Such notice shall set forth (i) the amount of the Incremental Commitments being requested (which shall not exceed the then-current Incremental Commitment Amount and shall be in minimum increments of \$5,000,000 and a minimum amount of \$20,000,000 or equal to the remaining Incremental Commitment Amount) and (ii) the date on which such Incremental Commitments are requested to become effective (which shall not be less than ten Business Days nor more than 60 days after the date of such notice (which time periods for notice may be modified or waived at the discretion of the Administrative Agent)). Each Class of Incremental Commitments established under this Section 2.12 is referred to herein as "Other Term Loans" and will rank pari passu in right of payment with the Loans and will benefit equally and ratably from the Liens under the Security Documents. Each Class of Other Term Loans will be on the terms and subject to the conditions reasonably satisfactory to the Administrative Agent.

(b) The Borrower and each Incremental Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Commitment of such Incremental Lender. Each Incremental Assumption Agreement shall specify the terms of the Other Term Loans to be made thereunder; provided that, without the prior written consent of Lenders holding a majority of the principal amount of the outstanding Loans, (i) the final maturity date of any Other Term Loans shall be no earlier than the Maturity Date and (ii) if the interest rate spread applicable to any Other Term Loans (which, for this purpose, shall be deemed to include all upfront or similar fees or original issues discount, but excluding any underwriting, arrangement, structuring or other fees payable in connection therewith that are not generally shared with the Lenders (collectively, "Upfront Payments"), in each case, paid to the Incremental Lenders in respect of such Other Term Loans) exceeds the interest rate spread applicable to the Term Loans (taking into account the Upfront Payments paid to the Lenders in respect of the establishment of the Term Loans) by more than 0.50%, then the interest rate spread applicable to the Term Loans shall be increased so that it equals (after taking into account Upfront Payments made in respect of the establishment of the Term Loans) the interest rate spread applicable to the Other Term Loans. For purposes of the foregoing, any original issue discount associated with the Term Loans or any Other Term Loans will be converted to an interest rate spread equivalent by dividing the percentage amount of such original issue discount by the lesser of (A) the Weighted Average Life to Maturity of such Loans and (B) four.

- (c) (i) Each Incremental Assumption Agreement shall require the consent of only the Borrower, the Administrative Agent and the Incremental Lenders providing the applicable Other Term Loans, but, in each case, not the consents of any other Lenders. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement and the other Loan Documents (other than the Intercreditor Agreement) shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Other Term Loans evidenced thereby, including the amount and final maturity thereof, any provisions relating to amortization and the interest to accrue and be payable thereon and any fees to be payable in respect thereof, and to effect such other changes (including changes to the provisions of Sections 4.08, 10.06 and 10.12, the definition of "Required Lenders" and any other provisions of any Loan Document specifying the number or percentage of Lenders (or Lenders of any Class) required to waive, amend or modify any rights under the Loan Documents or make any determination or grant any consent under the Loan Documents) as the Borrower and the Administrative Agent shall deem necessary or advisable in connection with the establishment of such Other Term Loans. Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower's consent (not to be unreasonably withheld or delayed) and furnished to the other parties hereto.
- (d) Notwithstanding the foregoing, no Incremental Assumption Agreement shall become effective under this Section 2.12 unless (i) on the date of such effectiveness and after giving effect to the making of any Other Term Loans contemplated thereby the conditions set forth in paragraphs (n) and (o) of Section 5.01 shall be satisfied and (ii) the Administrative Agent shall have received legal opinions, board resolutions and other closing certificates and documentation as it shall reasonably request relating to such Other Term Loans, consistent with those delivered on the Effective Date pursuant to Section 5.01. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement.

2.13 Loan Repurchases.

- (a) Subject to the terms and conditions set forth or referred to below, the Borrower or any of its Subsidiaries may from time to time, at its discretion, conduct modified Dutch auctions in order to purchase outstanding Loans or Other Term Loans of one or more Classes (as determined by the Borrower) (each, a "Purchase Offer"), each such Purchase Offer to be managed by an investment bank of recognized standing selected by the Borrower that is reasonably acceptable to the Administrative Agent (in such capacity, the "Auction Manager"), so long as the following conditions are satisfied:
 - (i) each Purchase Offer shall be conducted in accordance with the procedures, terms and conditions set forth in this Section 2.13 and the Auction Procedures;
 - (ii) no Default or Event of Default shall have occurred and be continuing on the date of the delivery of each Auction Notice and at the time of purchase of any of the Loans in connection with any Purchase Offer;

- (iii) the maximum principal amount (calculated on the face amount thereof) of each and all Classes of Loans or Other Term Loans that the Borrower offers to purchase in any such Purchase Offer shall be no less than \$10,000,000 (unless another amount is agreed to by the Administrative Agent) (across all such Classes);
- (iv) the aggregate principal amount (calculated on the face amount thereof) of all Loans or Other Term Loans of the applicable Class or Classes so purchased by the Borrower or any Subsidiary of the Borrower shall automatically be cancelled and retired by the Borrower or such Subsidiary on the settlement date of the relevant purchase (and may not be resold);
- (v) no more than one (1) Purchase Offer with respect to any Class may be ongoing at any one time and no more than four (4) Purchase Offers may be made in any one year;
- (vi) the Borrower represents and warrants that no Loan Party shall have any Borrower Restricted Information that (1) has not been previously disclosed in writing to the Administrative Agent and the Lenders (other than because such Lender does not wish to receive such Borrower Restricted Information) prior to such time and (2) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to participate in the Purchase Offer; and
- (vii) at the time of each purchase of any Loans or Other Term Loans through a Purchase Offer, the Borrower shall have delivered to the Auction Manager an officer's certificate of an Authorized Representative of the Borrower certifying as to compliance with preceding clauses (ii) and (vi).
- (b) The Borrower or the applicable Subsidiary of the Borrower must terminate any Purchase Offer if it fails to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of purchase of any Loans or Other Term Loans pursuant to such Purchase Offer. If the Borrower or any Subsidiary of the Borrower commences any Purchase Offer (and all relevant requirements set forth above which are required to be satisfied at the time of the commencement of such Purchase Offer have in fact been satisfied), and if at such time of commencement the Borrower or such Subsidiary reasonably believes that all required conditions set forth above which are required to be satisfied at the time of the consummation of such Purchase Offer shall be satisfied, then the Borrower or such Subsidiary shall have no liability to any Lender or Incremental Lender for any termination of such Purchase Offer as a result of its failure to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of consummation of such Purchase Offer, and any such failure shall not result in any Default or Event of Default hereunder. With respect to all purchases of Loans or Other Term Loans of any Class or Classes made by the Borrower or any Subsidiary of the Borrower pursuant to this Section 2.13, (i) the Borrower or such Subsidiary shall pay on the settlement date of each such purchase all accrued and unpaid interest (except to the extent otherwise set forth in the relevant offering documents), if any, on the purchased Loans or Other Term Loans of the applicable Class or Classes up to the settlement date of such purchase and (ii) such purchases (and the payments made by the Borrower or such Subsidiary and the cancellation of the purchased Loans or Other Term Loans, in each case in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 4.01 or Section 4.02 here

(c) The Administrative Agent and the Lenders hereby consent to the Purchase Offers and the other transactions effected pursuant to and in accordance with the terms of this Section 2.13 (provided that no Lender shall have an obligation to participate in any such Purchase Offer). For the avoidance of doubt, it is understood and agreed that the provisions of Sections 4.08, 10.04 and 10.06 will not apply to the purchases of Loans or Other Term Loans pursuant to Purchase Offers made pursuant to and in accordance with the provisions of this Section 2.13. The Auction Manager acting in its capacity as such hereunder shall be entitled to the benefits of the provisions of 8.03 to the same extent as if each reference therein to the "Administrative Agent" were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Purchase Offer.

2.14 Extension Offers.

(a) The Borrower may at any time and from time to time request that all or a portion of the Term Loans or Other Term Loans existing at the time of such request (each, an "Existing Loan") be converted to extend the termination date thereof and the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of Existing Loans (any Loans which have been so extended, ' Extended Loans") and to provide for other terms consistent with this Section 2.14. Prior to entering into any Extension Amendment (as defined below) with respect to any Extended Loans, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Existing Loans and which such request shall be offered equally to all such Lenders) (an " Extension Request") setting forth the proposed terms of the Extended Loans to be established thereunder, which terms shall be substantially similar to those applicable to the Existing Loans from which they are to be extended (the "Specified Existing Loan Class") except that (i) all or any of the final maturity dates of such Extended Loans may be delayed to later dates than the final maturity dates of the Existing Loans of the Specified Existing Loan Class, (ii)(1) the interest rates, interest margins, rate floors, upfront fees, funding discounts, original issue discounts and premiums with respect to the Extended Loans may be different from those for the Existing Loans of the Specified Existing Loan Class and/or (y) additional fees and/or premiums may be payable to the Lenders providing such Extended Loans in addition to or in lieu of any of the items contemplated by the preceding clause (1), (iii) the Extension Amendment may provide for other covenants and terms that apply to any period after the Latest Maturity Date for the Exisiting Loans (as in effect prior to the effectiveness of such Extension Amendment); provided that, notwithstanding anything to the contrary in this Section 2.14 or otherwise, (A) the borrowing and repayment of the Extended Loans shall be made on a pro rata basis with any borrowings and repayments of the Existing Loans of the Specified Existing Loan Class (the mechanics for which may be implemented through the applicable Extension Amendment (as defined below) and may include technical changes related to the borrowing and replacement procedures of the Specified Existing Loan Class) and (B) assignments and participations of Extended Loans shall be governed by the assignment and participation provisions set forth in Section 10.04. No Lender shall have any obligation to agree to have any of

its Loans converted into Extended Loans pursuant to any Extension Request. Any Extended Loans shall constitute a separate class of Loans from Existing Loans of the Specified Existing Loan Class and from any other Existing Loans.

- (b) The Borrower shall provide the applicable Extension Request at least five (5) Business Days (or such shorter period as the Administrative Agent may determine in its reasonable discretion) prior to the date on which Lenders holding Existing Loans are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably, to accomplish the purpose of this Section 2.14. Any Lender (an "Extending Lender") wishing to have all or a portion of its Loans (or any earlier Extended Loans) subject to such Extension Request converted into Extended Loans shall notify the Administrative Agent (an "Extension Election") on or prior to the date specified in such Extension Request of the amount of its Loans (and/or any earlier Extended Loans) which it has elected to convert into Extended Loans. In the event that the aggregate amount of Loans (and any earlier Extended Loans) subject to Extension Elections exceeds the amount of Extended Loans requested pursuant to the Extension Request, Loans and (and any earlier Extended Loans) subject to Extension Elections shall be converted to Extended Loans on a pro rata basis based on the amount of Loans (and any earlier Extended Loans) included in each such Extension Election or as may be otherwise agreed to in the applicable Extension Amendment.
- (c) Extended Loans shall be established pursuant to an amendment (an "Extension Amendment") to this Agreement (which, notwithstanding anything to the contrary set forth in Section 10.12, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Loans established thereby) executed by the Loan Parties, the Administrative Agent and the Extending Lenders. It is understood and agreed that each Lender hereunder has consented, and shall at the effective time thereof be deemed to consent to each amendment to this Agreement and the other Loan Documents authorized by this Section 2.14 and the arrangements described above in connection therewith. Notwithstanding anything to the contrary in this Section 2.14(c) and without limiting the generality or applicability of Section 10.12 to any Section 2.14 Additional Amendments (as defined below), any Extension Amendment may provide for additional terms and/or additional amendments other than those referred to or contemplated above (any such additional amendment, a "Section 2.14 Additional Amendment") to this Agreement and the other Loan Documents; provided that such Section 2.14 Additional Amendments are within the requirements of Section 2.14(a) and do not become effective prior to the time that such Section 2.14 Additional Amendments have been consented to (including, without limitation, pursuant to consents applicable to holders of any Extended Loans provided for in any Extension Amendment) by such of the Lenders, Loan Parties and other parties (if any) as may be required in order for such Section 2.14 Additional Amendments to become effective in accordance with Section 10.12.
- (d) Notwithstanding anything to the contrary contained in this Agreement, (i) on any date on which any class of Existing Loans is converted to extend the related scheduled maturity date(s) in accordance with paragraph (a) above (an "Extension Date"), in the case of the Existing Loans of each Extending Lender under any Specified Existing Loan Class, the aggregate principal amount of such Existing Loans shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Loans so converted by such Lender on such date,

and such Extended Loans shall be established as a separate class of Loans from the Specified Existing Loan Class and from any other Existing Loans (together with any other Extended Loans so established on such date) and (ii) if, on any Extension Date, any Existing Loans of any Extending Lender are outstanding under the Specified Existing Loan Class, such Existing Loans (and any related participations) shall be deemed to be allocated as Extended Loans (and related participations) in the same proportion as such Extending Lender's Specified Existing Loans to Extended Loans.

(e) No exchange of Loans pursuant to any Extension Amendment in accordance with this Section 2.14 shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

2.15 Term Loan Refinancing Protection.

In the event that, prior to the first anniversary of the Effective Date, any Lender receives a Refinancing Prepayment (as defined below), then, at the time thereof, the Borrower shall pay to such Lender a prepayment premium equal to 1.0% of the amount of such Refinancing Prepayment. As used herein, with respect to any Lender, a "Refinancing Prepayment" is the principal amount of the Term Loans of such Lender that is either (a) prepaid by the Borrower substantially concurrently with the incurrence by the Borrower or any of its Subsidiaries of new loans or other Indebtedness (other than Capital Lease Obligations) (whether pursuant to Incremental Commitments or otherwise, but excluding any such incurrence of Indebtedness consummated at the time a Change in Control occurs) or (b) received by such Lender in connection with an amendment of this Agreement that would have the effect of reducing the Applicable Margin with respect to such Term Loans.

SECTION 3. Fees.

3.01 <u>Fees</u>.

- (a) The Borrower agrees to pay the fee set forth in the Fee Letters and to pay to the Administrative Agent such fees as may be agreed to in writing from time to time by the Borrower and the Administrative Agent.
- (b) The Borrower agrees to pay a fee to each Lender payable on the Effective Date equal to 0.50% of the principal amount of such Lender's Term Loans made on the Effective Date, such fee to be paid in cash on the Effective Date, or if the Lender so elects by giving notice to the Administrative Agent at least one (1) Business Day prior to the Effective Date, as an original issue discount with respect to such Term Loans made by it.

SECTION 4. Prepayments; Payments; Taxes.

4.01 Voluntary Prepayments.

The Borrower shall have the right to prepay the Loans, without premium or penalty (except, if applicable, pursuant to Section 2.15, Section 4.03 or as set forth in the applicable Incremental Assumption Agreement) in whole or in part, at any time and from time to time on the following terms and conditions:

(a) an Authorized Representative of the Borrower shall give the Administrative Agent prior to 12:00 Noon (New York time) at the Notice Office at least three (3) Business Days prior written notice (or telephonic notice promptly confirmed in writing) of its intent to prepay such Loans;

- (b) voluntary prepayments of the Loans made by the Borrower pursuant to this Section shall be allocated among the Loans (and to the remaining scheduled installments of principal with respect to the Loans) in a manner determined at the discretion of the Borrower;
- (c) partial prepayments shall be in an aggregate amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof and shall be applied on a pro rata basis to the outstanding amount of the Loans;
- (d) any notice of prepayment pursuant to this Section 4.01 shall specify (1) the amount of such prepayment, (2) the prepayment date, (3) the Loans to be prepaid and (4) the allocation of the amount specified pursuant to clause (1) among the Loans specified pursuant to clause (3) and which notice the Administrative Agent shall promptly transmit to each of the Lenders; and
- (e) at the time of any prepayment of the Loans pursuant to this Section 4.01 on any date other than the last day of the Interest Period applicable thereto, the Borrower shall pay the amounts required to be paid pursuant to Section 2.09.
- (f) Notwithstanding the foregoing (and as provided in clause (A) of the proviso to Section 2.14(a)), the Borrower may not prepay Extended Loans of any Extension Series unless such prepayment is accompanied by a pro rata repayment of Existing Loans of the Specified Existing Loans of the Existing Loans from which such Extended Loans were converted (or such Existing Loans have otherwise been repaid and terminated in full).

4.02 Mandatory Prepayments.

(a) Upon the occurrence or happening of any Event of Loss and the receipt of Event of Loss Proceeds in respect thereof, the Borrower shall be required (subject to the payment priority in favor of the holders of Revolving Credit Agreement Obligations set forth in the Intercreditor Agreement and the Revolving Credit Agreement) to repay the Loans and other Pari Passu Obligations containing provisions similar to those set forth in this Section 4.02 with respect to a redemption or repayment upon an Event of Loss equal in aggregate principal amount to the Event of Loss Proceeds received in respect of such loss (rounded to the nearest \$1,000), at a redemption price, with respect to the Loans, equal to 100% of the principal amount thereof, plus accrued and unpaid interest and any additional amounts required under Section 4.07, if any, on the Loans redeemed to the applicable redemption date, subject to the rights of the Lenders on the relevant record date to receive interest due on the relevant interest payment date. The Borrower shall deliver the repayment notice to the Lenders within 30 days after the receipt of any Event of Loss Proceeds. If the aggregate principal amount of the Loans and other Pari Passu Obligations exceeds the amount of the Event of Loss Proceeds, the Pari Passu Collateral Agent shall select the Loans and such other Pari Passu Obligations to be redeemed or repaid on a pro rata basis; provided that any such repayment or redemption of other Pari Passu Obligations may be made at such time as is specified in the relevant Pari Passu Document and need not be

concurrent with the redemption of the Loans. All Event of Loss Proceeds received in respect of an Event of Loss will be required to be deposited in a deposit account controlled by the Pari Passu Collateral Agent within three business days of the receipt thereof and held as Collateral subject to a Lien under the Security Documents pending application thereof to the redemption or repayment of Pari Passu Obligations. The Borrower may withdraw funds from such deposit account to redeem or repay the Pari Passu Obligations in compliance with the foregoing.

- (b) The Borrower shall make Asset Sale Offers as required by Section 7.18.
- (c) Notwithstanding anything to the contrary contained elsewhere in this Agreement, all then outstanding Loans shall be repaid in full on the Maturity Date or the Incremental Maturity Date, as applicable.

4.03 Change of Control.

- (a) Upon the occurrence of a Change of Control, each Lender will have the right to require the Borrower to repurchase all or any part of that Lender's Loans pursuant to a change of control offer (a "Change of Control Offer") in an amount equal to 101% of the principal amount thereof, plus accrued and unpaid interest (if any) to the repayment date, except to the extent the Borrower have previously or concurrently elected to prepay the Loans in accordance with Section 4.01.
- (b) No later than 30 days following any Change of Control, except to the extent the Borrower has elected to prepay the Loans in accordance with Section 4.01, the Borrower will mail a notice (the "Change of Control Notice") of the Change of Control to the Administrative Agent, which the Administrative Agent shall promptly deliver to each Lender. The Change of Control Notice shall:
 - (i) state that a Change of Control has occurred and that such Lender has the right to require the Borrower to repay such Lender's Loans in an amount equal to 101% of the principal amount thereof, plus accrued and unpaid interest to the repayment date;
 - (ii) state the circumstances and relevant facts and financial information regarding such Change of Control;
 - (iii) state the repayment date (which shall be no earlier than 30 days nor later than 60 days from the date on which the Administrative Agent is notified) (the "Change of Control Payment Date");
 - (iv) state that unless the Borrower defaults in making the payment, all Loans accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;
 - (v) state that Lenders electing to have any Loans repaid pursuant to a Change of Control Offer will be required to notify the Administrative Agent prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

- (vi) state that Lenders will be entitled to withdraw their election to require the Borrowers to repay such Loans; <u>provided</u> that the Administrative Agent receives, not later than the close of business on the expiration date of the Change of Control Offer, a facsimile transmission, electronic mail or letter setting forth the name of such Lender, the principal amount of Loans to be repaid, and a statement that such Lender is withdrawing its election to have such Loans repaid; and
- (vii) provide the other instructions determined by the Administrative Borrower or as reasonably requested by the Administrative Agent, consistent with this Section 4.03, that a Lender must follow in order to have its Loans repaid.

The notice, if delivered in a manner herein provided, shall be conclusively presumed to have been given, whether or not the Lender receives such notice. If (1) the notice is delivered in a manner herein provided and (2) any Lender fails to receive such notice or a Lender receives such notice but it is defective, such Lender's failure to receive such notice or such defect shall not affect the validity of the proceedings for the repayment of the Loans as to all other Lenders that properly received such notice without defect.

- (c) On or before the Change of Control Payment Date, the Borrower will purchase all Loans or portions of Loans properly tendered and not withdrawn pursuant to the Change of Control Offer in an amount equal to 101% of the principal amount thereof, plus accrued and unpaid interest (if any) to the repayment date.
- (d) A Change of Control Offer may be made in advance of a Change of Control, and conditioned upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of making of the Change of Control Offer.
- (e) The Borrower will not be required to make a Change of Control Offer upon a Change of Control if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Agreement and repays all Loans properly elected to be repaid and not withdrawn under such Change of Control Offer and the Borrower shall instruct the Administrative Agent to accept repayments made by such third party.

4.04 <u>Termination of Commitments</u>.

The Term Loan Commitments shall be automatically and permanently reduced to zero after giving effect to the Borrowing on the Effective Date.

4.05 Repayment of the Loans.

- (a) The Borrower shall pay to the Administrative Agent, for the account of the applicable Lender, equal quarterly installments in aggregate annual amounts equal to 1.00% of the original principal amount of the Loans (other than Other Term Loans) (the "<u>Term Loan Repayment Amount</u>"), with the balance payable on the Maturity Date.
- (b) The Borrower shall pay to the Administrative Agent, for the account of the applicable Incremental Lenders, on each Incremental Repayment Date, including the Incremental Maturity Date, a principal amount of the Other Term Loans (such amounts, as adjusted from

time to time pursuant to Sections 4.01, 4.02 and 4.03, being called the "Incremental Repayment Amount") equal to the amount set forth for such date in the applicable Incremental Assumption Agreement.

(c) All repayments pursuant to this Section 4.05 shall be accompanied by accrued and unpaid interest on the principal amount paid to but excluding the date of payment, but shall otherwise be without premium or penalty. In the event that any Loans are purchased or acquired by the Borrower pursuant to Purchase Offers under Section 2.13 or any portion of any Loans are converted into a new Extension Series pursuant to an Extension Amendment effected pursuant to Section 2.14, then the Term Loan Repayment Amount and the Incremental Repayment Amount attributable to each Term Loan or Other Term Loan of each Class or Extension Series, as applicable, that was outstanding prior to and remains outstanding after such Purchase Offer or Extension Amendment, as the case may be, will not be reduced or otherwise affected by such transaction.

4.06 Method and Place of Payment.

Except as otherwise specifically provided herein, all payments under this Agreement and under any Note shall be made to the Administrative Agent for the account of the Lender or Lenders entitled thereto not later than 12:00 Noon (New York time) on the date when due and shall be made in Dollars in immediately available funds at the Payment Office. Any payments under this Agreement or under any Note which are made later than 12:00 Noon (New York time) on any day shall be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder or under any Note shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable at the applicable rate during such extension.

4.07 Net Payments; Taxes.

- (a) All payments made by any Loan Party hereunder or under any other Loan Document will be made without setoff, counterclaim or other defense.
- (b) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings of Indemnified Taxes applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

- (c) The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.
- (d) The Loan Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 4.07) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that the Borrower shall not be required to indemnify a Recipient pursuant to this Section 4.07(d) for any Indemnified Taxes unless such Recipient (or the Administrative Agent on such Recipient's behalf) notifies the Borrower of the indemnification claim for such Indemnified Taxes no later than nine months after the earlier of (i) the date on which the relevant Governmental Authority makes written demand upon such Recipient for payment of such Indemnified Taxes, and (ii) the date on which such Recipient has made payment of such Indemnified Taxes to the relevant Governmental Authority (except that, if the Indemnified Taxes imposed or asserted giving rise to such claims are retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof). A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.
- (e) Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), and (ii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).
- (f) As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 4.07, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.
- (g) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably

requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment, exercised in good faith, such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

- (h) If a payment made to a Recipient under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Recipient were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Recipient shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Recipient has complied with such Recipient's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (h), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.
- (i) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 4.07 (including by the payment of additional amounts pursuant to this Section 4.07), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 4.07 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

- (j) Each party's obligations under this Section 4.07 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations under any Loan Document.
 - (k) For purposes of this Section 4.07, the term "applicable law" includes FATCA.

4.08 Application of Proceeds.

- (a) All monies collected by the Administrative Agent (whether received from the Pari Passu Collateral Agent or otherwise) upon any sale or other disposition of the Collateral of each Loan Party, together with all other monies received by the Administrative Agent (whether received from the Pari Passu Collateral Agent or otherwise) under and in accordance with this Agreement and the other Loan Documents (including, without limitation, as a result of any distribution in respect of the Collateral in any bankruptcy, insolvency or similar proceeding) (except to the extent released in accordance with the applicable provisions of this Agreement or any other Loan Document), shall be applied to the payment of the Secured Obligations as follows:
 - (i) <u>first</u>, to the payment of all amounts owing to the Administrative Agent of the type described in clause (c) of the definition of "Secured Obligations";
 - (ii) <u>second</u>, to the extent proceeds remain after the application pursuant to the preceding clause (i), an amount equal to the outstanding Obligations shall be paid to the Lenders as provided in Section 4.08(d) hereof, with each Lender Creditor receiving an amount equal to the outstanding Obligations owing to such Lender Creditor or, if the proceeds are insufficient to pay in full all such Obligations, its Pro Rata Share of the amount remaining to be distributed; and
 - (iii) <u>third</u>, to the extent proceeds remain after the application pursuant to the preceding clauses (i) and (ii), inclusive, and following the termination of this Agreement and the Loan Documents in accordance with their terms, to the relevant Loan Party or to whomever may be lawfully entitled to receive such surplus.
- (b) For purposes of this Agreement, "Pro Rata Share" shall mean, when calculating a Lender Creditor's portion of any distribution or amount, that amount (expressed as a percentage) equal to a fraction the numerator of which is the then unpaid amount of such Lender Creditor's Obligations and the denominator of which is the then outstanding amount of all Obligations.
- (c) If any payment to any Lender Creditor of its Pro Rata Share of any distribution would result in overpayment to such Lender Creditor, such excess amount shall instead be distributed in respect of the unpaid Obligations of the other Lender Creditors, with each Lender Creditor whose Obligations have not been paid in full to receive an amount equal to such excess amount multiplied by a fraction the numerator of which is the unpaid Obligations of such Lender Creditors and the denominator of which is the unpaid Obligations of all Lender Creditors entitled to such distribution.

- (d) All payments required to be made hereunder shall be made if to the Lender Creditors, to the Administrative Agent under this Agreement for the account of the Lender Creditors.
- (e) For purposes of applying payments received in accordance with this Section 4.08, the Administrative Agent shall be entitled to rely upon the Administrative Agent's records under this Agreement for a determination (which the Lender Creditors agree (or shall agree) to provide upon request of the Administrative Agent) of the outstanding Obligations owed to the Lender Creditors.
- (f) It is understood and agreed that the Loan Parties shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral pledged and Liens granted by it under and pursuant to the Security Documents and the aggregate amount of the Secured Obligations of such Loan Party.

SECTION 5. Conditions Precedent.

5.01 Conditions Precedent to Effective Date.

The obligation of each Lender to make its Loans shall become effective on and as of the first date (the "<u>Effective Date</u>") on which the following conditions have been satisfied or waived in accordance with Section 10.12:

- (a) <u>Loan Documents</u>. The Administrative Agent and/or the Pari Passu Collateral Agent, as applicable, shall have received duly authorized, executed and delivered counterparts of (a) this Agreement, (b) Notes executed by the Borrower, for the account of each of the Lenders that has requested same, in each case in the amount, maturity and as otherwise provided herein, (c) the Intercreditor Agreement and (d) each other applicable Loan Document, in each case in form reasonably satisfactory to the Administrative Agent.
- (b) Fees, etc. The Borrower shall have paid all accrued costs, fees and expenses that are due and payable under the Loan Documents (including reasonable legal fees and expenses and the reasonable fees and expenses of any other advisors) for which an invoice has been provided to the Borrower at least one Business Day before the Effective Date and any other compensation, if any, payable to the Administrative Agent, the Lead Arrangers and the Lenders.
- (c) Officer's Certificate. The Administrative Agent shall have received a certificate, dated the Effective Date, and signed on behalf of the Borrower by an Authorized Representative of the Borrower certifying on behalf of the Borrower that all of the conditions set forth in clauses (f), (g), (n) and (o) of this Section 5.01 have been satisfied on such date
- (d) <u>Collateral and Guaranty Requirements</u>. The Collateral and Guaranty Requirements shall have been satisfied, and each Loan Document shall be in full force and effect, or the Administrative Agent shall have waived such requirements and/or conditioned such waiver on the satisfaction of such requirements within a specified period of time.

- (e) Consummation of the Refinancing. The Administrative Agent shall have received satisfactory evidence that the Refinancing has been, or substantially simultaneously with the Effective Date will be, consummated and that all security interests in respect of, and Liens securing, the Indebtedness under the PFA and/or the Temporary Importation Bond Facilities created pursuant to the security documentation relating thereto shall have been terminated and released (or releases in respect of such Liens shall have been delivered to the Administrative Agent, and the Administrative Agent shall have received all such releases as may have been reasonably requested by the Administrative Agent, which releases shall be in form and substance reasonably satisfactory to the Administrative Agent. Without limiting the foregoing, there shall have been delivered to the Administrative Agent (i) the Form UCC-3 Termination Statements required pursuant to the definition of "Collateral and Guaranty Requirements", (ii) terminations or releases of all mortgages and (iii) reassignments of insurances and charter hire, drilling contracts, revenues and earnings, as applicable, in each case, to secure the obligations under the Existing PFA, all of which shall be in form and substance reasonably satisfactory to the Administrative Agent.
- (f) <u>Revolving Credit Agreement and Senior Notes</u>. The Borrower shall, substantially simultaneously with the Effective Date, receive approximately \$750,000,000 (before deduction of OID, fees and expenses) in the aggregate from the issuance of the Senior Notes and enter into the Revolving Credit Agreement.

(g) No Material Adverse Effect; Approvals.

- (i) Since December 31, 2012, there shall not have occurred a Material Adverse Effect or any event or condition that has had, or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.
- (ii) All necessary governmental (domestic and foreign) and third party approvals and/or consents in connection with the transactions contemplated hereby and by the other Loan Documents shall have been obtained and remain in effect, and all applicable waiting periods with respect thereto shall have expired without any action being taken by any competent authority which, in the reasonable judgment of the Administrative Agent, restrains, prevents or imposes materially adverse conditions upon the consummation of the Transactions or the other transactions contemplated by the Loan Documents or otherwise referred to herein or therein. On the Effective Date, there shall not exist any judgment, order, injunction or other restraint issued or filed or a hearing seeking injunctive relief or other restraint pending or notified prohibiting or imposing materially adverse conditions upon the Transactions or the other transactions contemplated by the Loan Documents or otherwise referred to herein or therein.
- (h) <u>Certificate of Financial Officer</u>. The Administrative Agent shall have received a certificate from the chief financial officer or the treasurer of the Borrower, in form and substance reasonably acceptable to the Administrative Agent, addressed to the Administrative Agent and each of the Lenders and dated the Effective Date, certifying that, on and as of the Effective Date, and after giving effect to the Transaction and to all Indebtedness (including the Loans) being incurred or assumed and Liens created by the Loan Parties in connection therewith, (i) the sum of the assets, at a fair valuation, of the Borrower, on an

individual basis, and of the Borrower and its Subsidiaries, taken as a whole, will exceed their respective debts, (ii) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, have not incurred and do not intend to incur, and do not believe that they will incur, debts beyond their respective ability to pay such debts as such debts mature, and (iii) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, will have sufficient capital with which to conduct their respective businesses.

- (i) <u>Financial Statements</u>. The Lead Arrangers shall have received (i) audited consolidated financial statements of the Borrower and its subsidiaries for each of the three (3) fiscal years immediately preceding the Effective Date, consisting of a consolidated balance sheet and related consolidated statements of operations, comprehensive income (loss), shareholders' equity and cash flows for such fiscal years; and (ii) unaudited consolidated financial statements for any interim period or periods of the Borrower and its subsidiaries ended after the date of the most recent audited consolidated financial statements and more than 75 calendar days prior to the Effective Date, consisting of a consolidated balance sheet and related consolidated statements of operations, comprehensive income (loss), shareholders' equity and cash flows for the three-, six-, or nine-month period, as applicable.
- (j) Secretary's or Assistant Secretary's Certificates. The Administrative Agent shall have received a certificate, dated the Effective Date and reasonably acceptable to the Administrative Agent, signed by an Authorized Representative of each Loan Party, and attested to by the secretary or any assistant secretary (or, (x) if there is no secretary or assistant secretary, an Authorized Representative, or (y) with respect to any Loan Party organized under the laws of Luxembourg, a manager or director, as applicable) of such Loan Party (other than the Authorized Representative of such Loan Party signing the certificate of such Loan Party), as the case may be, certifying (i) as to the incumbency and genuineness of the signature of each Loan Party executing Loan Documents to which it is a party and (ii) that attached thereto are true, correct and complete copies of (1) the articles or certificate of incorporation, formation or other organizational document, as applicable, of such Loan Party, and all amendments thereto, certified as of a recent date by the appropriate governmental officials in its jurisdiction of incorporation or formation, as applicable, (2) the bylaws or other governing documents, as applicable, of such Loan Party as in effect on the Effective Date and (3) resolutions duly authorized by the board of directors (or other governing body) of such Loan Party authorizing and approving the execution and delivery of, and performance under, this Agreement and the other Loan Documents to which such Loan Party is a party.
- (k) <u>Certificates of Good Standing</u>. The Administrative Agent shall have received certificates as of a recent date of the good standing (or similar status) of each Loan Party under the laws of its jurisdiction of organization to the extent applicable in such jurisdiction.
- (l) <u>Opinions of Counsel</u>. The Administrative Agent shall have received from (a) U.S. counsel to each of the Loan Parties (which shall be Vinson & Elkins LLP or another law firm reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, (b) Luxembourg counsel to the Loan Parties (which shall be Wildgen, Partners in Law or another law firm qualified to render an opinion as to Luxembourg law reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, (c) the Republic of Liberia counsel

to the Loan Parties (which shall be Fulbright & Jaworski L.L.P. or another law firm qualified to render an opinion as to the law of the Republic of Liberia reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, and (d) the Federal Republic of Nigeria counsel to the Loan Parties (which shall be Adepetun Caxton-Martins Agbor & Segun or another law firm qualified to render an opinion as to the law of the Federal Republic of Nigeria reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, each such opinion to be addressed to the Pari Passu Collateral Agent, the Administrative Agent and the Lenders (and expressly permitting reliance by permitted successors and assigns of the addressees thereof) and dated as of the Effective Date.

- (m) <u>PATRIOT Act</u>. Each Loan Party shall have provided the documentation and other information to the Administrative Agent that are required by regulatory authorities under the applicable "know your customer" rules and regulations, including the PATRIOT Act, at least two (2) Business Days in advance of the Effective Date, to the extent requested at least five (5) Business Days in advance thereof.
- (n) Representations and Warranties. The representations and warranties set forth in Section 6 hereof and in the other Loan Documents shall be true and correct in all material respects on and as of the Effective Date with the same effect as though made on and as of such date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects on and as of such date (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct, only as of such specified date).
- (o) No Default or Event of Default. At the time of and immediately after the Borrowing on the Effective Date, no Default or Event of Default shall have occurred and be continuing.

SECTION 6. Representations, Warranties and Agreements .

In order to induce the Lenders to enter into this Agreement and to make the Loans as provided herein, the Borrower hereby makes the following representations, warranties and agreements, in each case on the Effective Date, all of which shall survive the execution and delivery of this Agreement and the Notes and the making of the Loans.

6.01 Corporate/Limited Liability Company/Limited Partnership Status. Each of the Borrower and its Restricted Subsidiaries (other than any Inactive Subsidiary) (a) is a duly organized or incorporated and validly existing corporation, limited liability company, limited partnership, company or other business entity, as the case may be, in good standing under the laws of the jurisdiction of its organization or incorporation, (b) has the corporate or other applicable power and authority to own its property and assets and to transact the business in which it is engaged and presently proposes to engage and (c) is duly qualified and is authorized to do business and is in good standing in each jurisdiction where the ownership, leasing or operation of its property or the conduct of its business requires such qualifications, except for

failures to be so qualified which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Except to the extent permitted by this Agreement, neither the Borrower nor any of its Restricted Subsidiaries has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened in writing against any of them for winding up, or dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor have they sought any other relief under any applicable insolvency or bankruptcy law.

- 6.02 Corporate Power and Authority. Each Loan Party has the corporate or other applicable power and authority to execute, deliver and perform the terms and provisions of each of the Loan Documents to which it is party and has taken all necessary corporate or other applicable action to authorize the execution, delivery and performance by it of each of such Loan Documents. Each Loan Party has duly executed and delivered each of the Loan Documents to which it is party, and each of such Loan Documents constitutes its legal, valid and binding obligation enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).
- 6.03 No Violation. Neither the execution, delivery or performance by any Loan Party of the Loan Documents to which it is a party, nor compliance by it with the terms and provisions thereof, (a) will contravene in any material respect any applicable provision of any law, statute, rule or regulation or any order, writ, injunction or decree of any court or governmental instrumentality, (b) will conflict in any material respect with or result in any material breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien (except pursuant to the Security Documents) upon any of the properties or assets of any Loan Party pursuant to the terms of any indenture, mortgage, deed of trust, credit agreement or loan agreement, or any other material agreement, contract or instrument, in each case to which any Loan Party is a party or by which it or any of its property or assets is bound or to which it may be subject or (c) will violate any provision of the certificate or articles of incorporation or by-laws (or equivalent organizational documents) of any Loan Party.
- 6.04 Governmental Approvals. No order, consent, approval, license, authorization or validation of, or filing, recording or registration with (except for those that have otherwise been obtained or made on or prior to the Effective Date), or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to be obtained or made by, or on behalf of, any Loan Party to authorize, or is required to be obtained or made by, or on behalf of, any Loan Party in connection with, (i) the execution, delivery and performance of any Loan Document or (ii) the legality, validity, binding effect or enforceability of any Loan Document.
 - 6.05 Financial Statements; Financial Condition; Undisclosed Liabilities; Projections; etc.
- (a) The audited and unaudited financial statements delivered pursuant to Section 5.01(i) present fairly in all material respects the consolidated financial position of the Borrower and its consolidated Subsidiaries at the dates of the balance sheets contained therein and the

consolidated results of the operations of the Borrower and its consolidated Subsidiaries for the periods covered thereby. All of the foregoing historical financial statements have been prepared in accordance with GAAP (except, in the case of the aforementioned quarterly financial statements, for normal year-end audit adjustments and the absence of footnotes).

- (b) On and as of the Effective Date, and after giving effect to the Transaction and to all Indebtedness (including the Loans) being incurred or assumed and Liens created by the Loan Parties in connection therewith, (i) the sum of the assets, at a fair valuation, of the Borrower, on an individual basis, and of the Borrower and its Subsidiaries, taken as a whole, will exceed their respective debts, (ii) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, have not incurred and do not intend to incur, and do not believe that they will incur, debts beyond their respective ability to pay such debts as such debts mature, and (iii) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, will have sufficient capital with which to conduct their respective businesses. For purposes of this Section 6.05(b), "debt" means any liability on a claim, and "claim" means (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.
- (c) Except as fully disclosed in the financial statements referred to in Section 6.05(a), there were as of the Effective Date no liabilities or obligations with respect to the Borrower or any of its Subsidiaries of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether or not due) which, either individually or in the aggregate, could reasonably be expected to be material to the Borrower and its Subsidiaries taken as a whole. As of the Effective Date, the Borrower does not know of any reasonable basis for the assertion against it or any of its Subsidiaries of any liability or obligation of any nature whatsoever that is not fully disclosed in the financial statements referred to in Section 6.05(a) which, either individually or in the aggregate, could reasonably be expected to be material to the Borrower and its Subsidiaries taken as a whole.
- (d) On and as of the Effective Date, the Projections which have been delivered to the Administrative Agent and the Lenders prior to the Effective Date have been prepared in good faith and are based on reasonable assumptions, and there are no statements or conclusions in any of the Projections which are based upon or include information known to the Borrower to be misleading in any material respect or which fail to take into account material information known to the Borrower regarding the matters reported therein; it being recognized by the Lenders, however, that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by the Projections may differ from the projected results.
- (e) Since December 31, 2012, there has been no change in the operations, business, properties, or financial condition of the Borrower or any of its Restricted Subsidiaries taken as a whole that has had, or would reasonably be expected to have, a Material Adverse Effect.

6.06 <u>Litigation</u>. There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened (a) with respect to the Transaction or any Loan Document or (b) that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

6.07 <u>True and Complete Disclosure</u>. All information (taken as a whole), other than Projections and other forward-looking information, furnished by or on behalf of the Borrower or its Subsidiaries in writing to the Administrative Agent or any Lender (including, without limitation, all information contained in the Loan Documents) for purposes of or in connection with this Agreement, the other Loan Documents or any transaction contemplated herein or therein is, and all other such factual information (taken as a whole), other than Projections and other forward-looking information, hereafter furnished by or on behalf of the Borrower or any of its Subsidiaries in writing to the Administrative Agent or any Lender will be, true and accurate in all material respects on the date as of which such information is dated or certified, not contain any untrue statement of a material fact and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided.

6.08 Use of Proceeds; Margin Regulations.

- (a) All proceeds of all Loans shall be used to consummate the Refinancing and for the Borrower's and its Subsidiaries' general corporate purposes, including working capital, capital expenditures, non-hostile acquisitions and other lawful corporate purposes.
- (b) Neither the Borrower nor any of the Restricted Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock. No proceeds of any Loan will be used for any purpose which will violate or be inconsistent with the provisions of the Margin Regulations.
- 6.09 <u>Tax Returns; Payments; Tax Treatment</u>. The Borrower and each of its Restricted Subsidiaries have timely filed with the appropriate taxing authority all material returns, statements, forms and reports for taxes or an extension therefor (the "<u>Returns</u>") required to be filed by, or with respect to the income, properties or operations of, the Borrower and/or any of its Restricted Subsidiaries. The Returns accurately reflect in all material respects all liability for taxes of the Borrower and its Restricted Subsidiaries as a whole for the periods covered thereby. Each of the Borrower and each of its Restricted Subsidiaries have paid all taxes and assessments payable by it, other than those (a) that are being contested in good faith and adequately disclosed and fully provided for on the financial statements of the Borrower and its consolidated Subsidiaries in accordance with GAAP or (b) the failure of which to pay could not reasonably be expected to have a Material Adverse Effect. There is no action, suit, proceeding, investigation, audit or claim now pending or, to the best knowledge of the Borrower or any of its Restricted Subsidiaries, threatened by any authority regarding any taxes relating to the Borrower or any of its Restricted Subsidiaries that would have, or would reasonably be expected to have, a Material Adverse Effect. The Borrower is treated as a corporation for U.S. federal income tax purposes. No payment by or on account of any obligation of any Loan Party under any Loan

Document shall be treated as income from sources within the United States for U.S. federal income tax purposes by reason of Section 884(f) of the Code or the Treasury regulations promulgated thereunder, other than any payment identified as U.S. source in a written notice provided to the Administrative Agent by the applicable Loan Party at least 35 days prior to the date such payment is made.

6.10 Compliance with ERISA.

- (a) Schedule 6.10 sets forth, as of the Effective Date, the name of each Plan. Neither the Borrower nor any Subsidiary of the Borrower nor any ERISA Affiliate has ever sponsored, maintained, made any contributions to or has any liability in respect of any Plan which is subject to Title IV of ERISA or Section 302, 303 or 304 of ERISA or Section 412, 430 or 436 of the Code; each Plan has been maintained and operated in compliance in all materials respects with the provisions of ERISA and, to the extent applicable, the Code, including but not limited to the provisions thereunder respecting prohibited transactions except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. No action, suit, proceeding, hearing, audit or investigation with respect to the administration, operation or the investment of assets of any Plan (other than routine claims for benefits) is pending, expected or threatened except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. Except as would not result in a Material Adverse Effect, each group health plan (as defined in Section 607(1) of ERISA or Section 4980B(g)(2) of the Code) which covers or has covered employees or former employees of the Borrower, any Subsidiary of the Borrower, or any ERISA Affiliate has at all times been operated in compliance with the provisions of Part 6 of subtitle B of Title I of ERISA and Section 4980B of the Code. Under each employee welfare benefit plan within the meaning of Section 3(1) or Section 3(2)(B) of ERISA covering employees of the Borrower or any Subsidiary of the Borrower, no benefits are due thereunder unless the event giving rise to the benefit entitlement occurs prior to termination of employment (except as required by Title I, Subtitle B, Part 6 of ERISA) except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. The Borrower and each of its Subsidiaries and each ERISA Affiliate may cease contributions to any employee benefit plan maintained by any of them without incurring any material liability and may terminate any employee benefit plan maintained by any of them without incurring any liability that could reasonably be expected to result in a Material Adverse Effect.
- (b) Each Foreign Pension Plan has been maintained in substantial compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. All contributions required to be made with respect to a Foreign Pension Plan have been timely made except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries have incurred any obligation in connection with the termination of, or withdrawal from, any Foreign Pension Plan, except that which would not reasonably be expected to result in a Material Adverse Effect. The present value of the accrued benefit liabilities (whether or not vested) under each Foreign Pension Plan, determined as of the end of the Borrower's most recently ended fiscal year on the basis of then current actuarial assumptions, each of which is reasonable, did not (i) materially exceed the current value of the assets of such

Foreign Pension Plan (other than a severance plan or similar arrangement providing for payments on termination of employment) allocable to such benefit liabilities, or (ii) exceed the current value of the assets of a Foreign Pension Plan that is a severance plan or similar arrangement providing for payments on termination of employment, except that would not reasonably be expected to result in a Material Adverse Effect.

6.11 The Security Documents.

- (a) The U.S. Security Agreement is effective to create in favor of the Pari Passu Collateral Agent for the benefit of the Lender Creditors, legal, valid and enforceable Liens on, and security interests in, the Security Agreement Collateral, in each case, subject to the terms of the Intercreditor Agreement, and, (i) when financing statements are filed in the offices specified on Schedule 6.11 and (ii) upon the taking of possession or control by the Pari Passu Collateral Agent of the Security Agreement Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Pari Passu Collateral Agent, to the extent possession or control by the Pari Passu Collateral Agent is required by the U.S. Security Agreement), the Liens created by the U.S. Security Agreement shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the grantors in the Security Agreement Collateral (other than such Security Agreement Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction by the filing of a financing statement or by possession or control by the Pari Passu Collateral Agent), in each case subject to no Liens other than Permitted Liens.
- (b) Each of the Collateral Rig Mortgages is in proper legal form under the laws of the relevant flag state for the enforcement thereof under such laws, subject only to such matters which may affect enforceability arising under the laws of the State of New York or with respect to Collateral Rigs registered in the Republic of Liberia, under the laws of the Republic of Liberia, and such other matters that do not substantially interfere with the practical realization of the principal benefits expressed in the Collateral Rig Mortgages, except for the economic consequences of any procedural delay that might result from such matters. To ensure the legality, validity, enforceability or admissibility in evidence of each such Collateral Rig Mortgage or other Loan Document in the relevant flag state it is not necessary that any such Collateral Rig Mortgage or other Loan Document or any other document be filed or recorded with any court or other authority in such relevant flag state, except as have been made or provided to the Pari Passu Collateral Agent or will be made or provided to the Pari Passu Collateral Agent, in accordance with this Agreement, such Collateral Rig Mortgage or the Intercreditor Agreement. Each Collateral Rig Mortgage executed and delivered creates in favor of the Pari Passu Collateral Agent for the benefit of the Lender Creditors a legal, valid, and enforceable first preferred mortgage lien over the Collateral Rig or Collateral Rigs covered thereby and when duly recorded in accordance with the laws of the Collateral Rig's registry, will constitute a "preferred mortgage" within the meaning of Section 31301(6) of Title 46 of the United States Code, entitled to the benefits accorded a preferred mortgage on a foreign vessel, in the case of Collateral Rigs not registered under the laws and flag of the United States, and in the case of Collateral Rigs registered under the laws and flag of the United States, constitutes a "preferred mortgage" within the meaning of Section 31301(6) of Title 46 of the United States Code, entitled to the benefits accorded a preferred mortgage on a registered vessel under the laws and flag of the United States.

- (c) Each other Security Document delivered on the Effective Date or pursuant to Sections 7.07 will, upon execution and delivery thereof, be effective to create in favor of the Pari Passu Collateral Agent for the benefit of the Lender Creditors, legal, valid and enforceable Liens on, and security interests in, all of the Loan Parties' right, title and interest in and to the Collateral thereunder, and (i) when all appropriate filings or recordings are made in the appropriate offices as may be required under applicable law and (ii) upon the taking of possession or control by the Pari Passu Collateral Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Pari Passu Collateral Agent, to the extent required by any Security Document), such Security Document will constitute fully perfected Liens on, and security interests in, all right, title and interest of the Loan Parties in such Collateral (other than such Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction by the filing of a financing statement or by possession or control by the Pari Passu Collateral Agent), in each case subject to no Liens other than the applicable Permitted Liens.
- 6.12 <u>Capitalization</u>. As of the Effective Date, all of the Capital Stock of each Loan Party (other than the Borrower) is legally and beneficially owned as set forth on <u>Schedule 6.12</u>. Except as set forth on <u>Schedule 6.12</u>, all such outstanding Equity Interests have been duly and validly issued, are fully paid and non-assessable and have been issued free of preemptive rights.
- 6.13 <u>Subsidiaries</u>. On the Effective Date, (a) the Borrower has no Subsidiaries other than those Subsidiaries listed on <u>Schedule 6.13</u> (which Schedule identifies the correct legal name, direct owner, percentage ownership and jurisdiction of organization of each such Subsidiary on the Effective Date) and (b) all of the Borrower's Subsidiaries are Restricted Subsidiaries.
- 6.14 <u>Compliance with Statutes</u>, etc. Each of the Borrower and each of its Restricted Subsidiaries is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental bodies, domestic or foreign, in respect of the conduct of its business and the ownership of its property (including applicable statutes, regulations, orders and restrictions relating to environmental standards and controls), except such noncompliance as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- 6.15 <u>Investment Company Act</u>. Neither the Borrower nor any of its Restricted Subsidiaries is an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended.
- 6.16 <u>Legal Names; Type of Organization (and Whether a Registered Organization); Jurisdiction of Organization; etc.</u> Schedule 6.16 sets forth, as of the Effective Date, the legal name of the Borrower and each Subsidiary Guarantor, the type of organization of the Borrower and each Subsidiary Guarantor that is a Domestic Subsidiary is a registered organization, the jurisdiction of organization of the Borrower and each Subsidiary Guarantor and the organizational identification number (if any) of the Borrower and each Subsidiary Guarantor that is a Domestic Subsidiary.

6.17 Environmental Matters.

- (a) Each of the Borrower and its Restricted Subsidiaries is in compliance with all Environmental Laws and the requirements of any permits issued under such Environmental Laws except for such failures to comply that would not reasonably be expected to have a Material Adverse Effect. There are no pending or, to the knowledge of the Borrower, threatened Environmental Claims that would reasonably be expected to have a Material Adverse Effect against the Borrower or any of its Restricted Subsidiaries or any Rig. Real Property or other facility owned. leased or operated by the Borrower or any of its Restricted Subsidiaries (including any such claim to the extent known by the Borrower to exist and arising out of the ownership, lease or operation by the Borrower or any of its Restricted Subsidiaries of any Rig, Real Property or other facility formerly owned, leased or operated by the Borrower or any of its Restricted Subsidiaries but no longer owned, leased or operated by the Borrower or any of its Restricted Subsidiaries). All material licenses, permits, registrations or approvals required for the business of the Borrower and each of its Restricted Subsidiaries as currently conducted under any Environmental Law have been applied for or secured and the Borrower and each of its Restricted Subsidiaries is in compliance therewith except such noncompliance as would not reasonably be expected to have a Material Adverse Effect. There are no facts, circumstances, conditions or occurrences in respect of the business or operations of the Borrower or any of its Restricted Subsidiaries as currently conducted or planned (or, to the knowledge of the Borrower, any of the Borrower's or any of its Restricted Subsidiaries' respective predecessors) or any Rig, Real Property or other facility currently owned or operated by the Borrower or any of its Restricted Subsidiaries (or, to the knowledge of the Borrower, any of the Borrower's or any of its Restricted Subsidiaries' formerly owned or operated Rig, Real Property or other facility) that are reasonably likely (i) to form the basis of an Environmental Claim against the Borrower or any of its Restricted Subsidiaries with respect to the Borrower, any Restricted Subsidiary or any Rig, Real Property or other facility owned or operated by the Borrower or any of its Restricted Subsidiaries, or (ii) to cause such Rig, Real Property or other facility owned or operated by the Borrower or any of its Restricted Subsidiaries to be subject to any restrictions on its ownership, occupancy, use or transferability under any Environmental Law, except for, with respect to (i) such Environmental Claims, or, with respect to clause (ii), such restrictions that would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- (b) Hazardous Materials have at all times been generated, used, treated or stored on, or transported to or from, or Released on or from, any Rig, Real Property or other facility owned, leased or operated by the Borrower or any of its Restricted Subsidiaries in a manner so as not to result in liability under Environmental Laws applicable to the country in which each Rig operates against Borrower or any of its Restricted Subsidiaries (x) during the time of such current ownership, lease or operation by the Borrower or any of its Restricted Subsidiaries or, (y) to the knowledge of the Borrower prior or subsequent to the time of such ownership, lease or operation by the Borrower or any of its Restricted Subsidiaries, except, in the case of both (x) and (y) above, where such liability, either individually or in the aggregate, would not reasonably be likely to have a Material Adverse Effect. To the knowledge of the Borrower, Hazardous Materials have not at any time been generated, used, treated or stored on, or transported to or from, or Released on or from, any property adjoining or adjacent to any Real property or other facility of Borrower or any of its Restricted Subsidiaries, where such generation, use, treatment, storage, transportation or Release has violated or could be reasonably expected to violate any applicable Environmental law or give rise to an Environmental Claim except for such noncompliance as would not reasonably be expected to have a Material Adverse Effect.

- (c) All of the Rigs comply with all Environmental Laws except such noncompliance as would not reasonably be expected to have a Material Adverse Effect. The Borrower and its Restricted Subsidiaries have made all required payments to statutory environmental insurance schemes required under Environmental Law and other environmental insurance schemes applicable to the Borrower and its Restricted Subsidiaries except such failure to make payments as would not reasonably be expected to have a Material Adverse Effect.
- 6.18 No Default. Neither the Borrower nor any of its Restricted Subsidiaries is in default under or with respect to any indenture, mortgage, deed of trust, credit agreement or loan agreement, or any other agreement, contract or instrument, in each case to which the Borrower or such Restricted Subsidiary is a party or by which it or any of its property or assets is bound or to which it may be subject, except for such defaults as would not reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing.
- 6.19 <u>Patents, Licenses, Franchises and Formulas</u>. Each of the Borrower and each of its Restricted Subsidiaries owns, or has the right to use, all material patents, trademarks, trade secrets, service marks, trade names, copyrights, licenses, franchises and formulas, and has obtained assignments of all leases and other rights of whatever nature, necessary for the present conduct of its business, without any known conflict with the rights of others, except for such failures and conflicts which would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.
- 6.20 <u>Anti-Corruption Laws</u>. The Borrower and its Restricted Subsidiaries have observed and are in compliance with all applicable laws and regulations relating to bribery and corrupt practices, including the FCPA.
 - 6.21 <u>Insurance</u>. As of the Effective Date, the Loan Parties maintain the insurance required by Section 7.01.

6.22 Collateral Rigs.

- (a) The name, registered owner and official number, and jurisdiction of registration and flag of each Collateral Rig are set forth on Schedule 6.22. Each Collateral Rig is operated in all material respects in compliance with all applicable law, rules and regulations (applicable to each Collateral Rig in accordance with Section 6.22(c) and as required by the applicable Classification Society). Each Collateral Rig is covered by all such insurance as is required in accordance with the requirements of the respective Collateral Rig Mortgage and Section 7.01.
- (b) Each Loan Party which owns or operates or which will own or operate one or more Collateral Rigs is qualified to own and operate such Collateral Rig under the laws of its jurisdiction of incorporation and its relevant flag state.
- (c) Each Collateral Rig has its Classification, free of any requirement or recommendation, other than as permitted under the Collateral Rig Mortgage related thereto.

- 6.23 <u>Properties</u>. The Borrower and each of its Restricted Subsidiaries have good and marketable title to (i) all property reflected in <u>Schedule 6.22</u> and (ii) except where a failure to have good and marketable title would not reasonably be expected to have a Material Adverse Effect, all other properties owned by them, including all property reflected in the balance sheets referred to in Section 6.05(a) (except as sold or otherwise disposed of since the date of such balance sheet in the ordinary course of business or as permitted by the terms of this Agreement). The Collateral is free and clear of all Liens, other than Permitted Liens.
- 6.24 <u>Anti-Terrorism</u>. The Borrower and its Restricted Subsidiaries are in compliance in all material respects with United States laws relating to terrorism or money laundering ("<u>Anti-Terrorism Laws</u>"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "<u>Executive Order</u>"), and the PATRIOT Act.
- (a) Neither the Borrower nor any of its Restricted Subsidiaries acting or benefiting in any capacity in connection with the Loans is any of the following:
 - (i) a Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;
 - (ii) a Person or entity that is majority-owned or controlled by, or acting for or on behalf of, any Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;
 - (iii) a Person or entity with which a Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;
 - (iv) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order:
 - (v) a Person or entity that is included on the Specially Designated Nationals and Blocked Persons List maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC") or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list (collectively, the "OFAC Lists");
 - (vi) is, nor are any of their respective directors, officers, agents, employees or Affiliates, subject to any U.S. sanction administered by OFAC.
- (b) Neither the Borrower nor, to its knowledge, any of its Restricted Subsidiaries acting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (a)(ii) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any United States Anti-Terrorism Law.

- 6.25 Form of Documentation. Each of the Loan Documents is or, when executed, will be in proper legal form under the laws of the jurisdiction which governs such documents for the enforcement thereof under such laws, as applicable, subject only to such matters which may affect enforceability arising under the law of the State of New York. To ensure the legality, validity, enforceability or admissibility in evidence of each such Loan Document under the laws of the jurisdiction which governs such document, it is not necessary that any Loan Document or any other document be filed or recorded with any court or other authority in such applicable permitted jurisdiction, except as have been made, or will be made, in accordance with the definition of "Collateral and Guaranty Requirements".
- 6.26 <u>Place of Business</u>. None of the Loan Parties has a place of business in any jurisdiction which requires any of the Security Documents to be filed or registered in that jurisdiction to ensure the validity of the Security Documents to which it is a party unless all such filings and registrations have been made or will be made, in accordance with the definition of "Collateral and Guaranty Requirements".
- 6.27 <u>No Immunity</u>. Neither the Borrower, nor any of its Restricted Subsidiaries is a sovereign entity or has immunity on the grounds of sovereignty or otherwise from setoff or any legal process under the laws of any jurisdiction. The execution and delivery of the Loan Documents by the Loan Parties and the performance by them of their respective obligations thereunder constitute commercial transactions.
- SECTION 7. <u>Covenants</u>. The Borrower hereby covenants and agrees that from and after the Effective Date and until all Loans, together with interest, Fees and all other Obligations (other than indemnities described in Section 10.13 which are not then due and payable) incurred hereunder and thereunder, are paid in full:

7.01 Maintenance of Property; Insurance.

- (a) The Borrower will, and will cause each of its Restricted Subsidiaries to, (i) keep all material property necessary to the business of the Borrower and its Restricted Subsidiaries in good working order and condition (ordinary wear and tear and loss or damage by casualty or condemnation excepted) with such exceptions as would not reasonably be expected to have a Material Adverse Effect and (ii) furnish to the Administrative Agent, at the written request of the Administrative Agent, a complete description of the material terms of insurance carried on the Collateral Rigs.
 - (b) The Borrower will, and will cause each of its Restricted Subsidiaries to:
 - (i) insure and keep each Collateral Rig insured or cause or procure each Collateral Rig to be insured and to be kept insured at no expense to the Administrative Agent or the Pari Passu Collateral Agent in regard to (collectively, the "Insurances"):
 - (1) hull and machinery (including increased value insurance);
 - (2) war risks (including common conditions and exclusions);
 - (3) protection and indemnity risks (including vessel pollution risks);

- (4) mortgagee's interest risks (including additional perils pollution);
- (5) loss of hire, to the extent reasonably deemed prudent by the Borrower in light of the cost of obtaining such insurance; and
- (6) such other insurances as a prudent owner of similar vessels of the same age and type would obtain or would legally be required to obtain when operating in the same trade and geographic area as such Collateral Rig, as well as any insurances required to meet the requirements of the jurisdiction where such Collateral Rig is employed with named windstorm coverage exclusions while a Collateral Rig is operating in the Gulf of Mexico;

<u>provided</u> that neither the Borrower nor any of its Restricted Subsidiaries shall be required to procure or maintain any insurance otherwise required to be procured or maintained under this clause (i), if such insurance is not commercially available in the commercial insurance market.

- (ii) effect the Insurances or cause or procure the same to be effected:
 - (1) in such amounts and upon such terms and with such deductibles as shipowners engaged in the same or similar business and similarly situated would deem commercially prudent under the circumstances; and
 - (2) through the owner's approved broker (the "Owner's Insurance Broker") and reputable independent insurance companies and/or underwriters (including mutual insurance schemes and /or captive insurance schemes) in Europe, North America, the Far East and other established insurance markets except that the insurances against protection and indemnity risks may be effected by the entry of the Collateral Rigs with protection and indemnity associations which are members of the IGA or, if the IGA has disbanded and there is no successor or replacement body of associations, other leading protection and indemnity associations and the insurances against war risks may be effected by the entry of the Collateral Rig with leading war risks associations (hereinafter called the "Insurers"):
- (iii) renew or replace all such Insurances or cause or procure the same to be renewed or replaced before the relevant policies or contracts expire and to procure that the Owner's Insurance Broker and/or the relevant protection and indemnity association or war risks association shall promptly confirm in writing to the Pari Passu Collateral Agent, upon its request, as and when each such renewal or replacement is effected;

- (iv) duly and punctually pay, or cause duly and punctually to be paid, all premiums, calls, contributions or other sums payable in respect of all such Insurances, to produce or to cause to be produced all relevant receipts when so required by the Pari Passu Collateral Agent and duly and punctually to perform and observe or to cause duly and punctually to be performed and observed any other obligations and conditions under all such Insurances;
- (v) procure that all policies, binders, cover notes or other instruments of the Insurances referred to in clauses (1), (2) and (5) of clause (i) above shall be taken out in the name of the Borrower or any Subsidiary Guarantor or a Restricted Subsidiary, with the Pari Passu Collateral Agent as an additional insured (without liability for premiums), as its interests may appear, and shall incorporate a loss payable clause naming the Pari Passu Collateral Agent as loss payee prepared in compliance with the terms of the Assignment of Insurance Proceeds;
- (vi) procure that, upon request of the Pari Passu Collateral Agent, copies of all original such instruments of Insurances shall be from time to time delivered to the Pari Passu Collateral Agent after receipt by the Borrower or a Restricted Subsidiary thereof;
- (vii) not employ any Collateral Rig or suffer any Collateral Rig to be employed otherwise than in conformity with the terms of all policies, bindings, cover notes or other instruments of the Insurances (including any warranties express or implied therein) without first obtaining the written consent of the Insurers to such employment (if required by such Insurers) and complying with such requirements as to extra premiums or otherwise as the Insurers may prescribe;
- (viii) cause any proceeds in respect of the Insurances referred to in paragraph (i) above (except clauses (3), (4) and, as applicable, (6) of such paragraph) to be paid to the Borrower or any Subsidiary Guarantor that then owns the Collateral Rig or any Internal Charterer (subject to provisions as to named insureds, additional insureds and loss payees in favor of the Pari Passu Collateral Agent as required by this Section 7.01(b); and
- (ix) upon the request of the Pari Passu Collateral Agent, do all things necessary, proper and desirable, and execute and deliver all documents and instruments, to enable the Pari Passu Collateral Agent to collect or recover any moneys to become due in respect of the Insurances.
- 7.02 Existence . Subject to Section 7.02, the Borrower shall do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

7.03 Reports.

- (a) Whether or not the Borrower is then subject to Section 13(a) or 15(d) of the Exchange Act, the Borrower shall furnish to the Administrative Agent and the Lenders, so long as any Term Loans are outstanding:
 - (i) within 75 days after the end of each of the first three fiscal quarters in each fiscal year, reports on Form 6-K (or any successor form) containing, whether or not required, the Borrower's unaudited quarterly consolidated financial statements (including a balance sheet and statement of income, changes in stockholders' equity and cash flow) and a Management's Discussion and Analysis of Financial Condition and Results of Operations (the "MD&A") (or equivalent disclosure) for and as of the end of such fiscal quarter (with comparable financial statements for the corresponding fiscal quarter of the immediately preceding fiscal year);
 - (ii) within the time period required under the rules of the SEC for the filing of Form 20-F (or any successor form) for each fiscal year, an annual report on Form 20-F (or any successor form) containing the information required to be contained therein (including the Borrower's audited consolidated financial statements, a report thereon by the Borrower's certified independent accountants and an MD&A) for such fiscal year; and
 - (iii) at or prior to such times as would be required to be filed or furnished to the SEC if the Borrower was then a "foreign private issuer" subject to Section 13(a) or 15(d) of the Exchange Act (whether or not the Borrower is then subject to such requirements), all such other reports and information that the Borrower would have been required to file or furnish pursuant thereto.
- (b) All such reports will be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. In addition, the Borrower shall electronically file or furnish, as the case may be, a copy of all such information and reports referred to in clauses (i) through (iii) of Section 7.03(a) with the SEC for public availability within the time periods specified therein at any time the Borrower is then subject to Section 13(a) or 15(d) of the Exchange Act and make such information available to the Lenders upon request. The Borrower shall be deemed to have furnished such reports referred to above to the Administrative Agent and the Lenders if the Borrower has filed such reports with the SEC via the EDGAR filing system and such reports are publicly available. If, notwithstanding the foregoing, the SEC will not accept the Borrower's filings for any reason, the Borrower will post the reports referred to in the preceding paragraph on its website within the time periods that would apply to non-accelerated filers if the Borrower were required to file those reports with the SEC. The Borrower agrees that, for so long as any Loans remain outstanding, it will hold and participate in quarterly conference calls with the Lenders and securities analysts relating to the financial condition and results of operations of the Borrower and the Restricted Subsidiaries.

7.04 Compliance Certificate.

(a) The Borrower shall deliver to the Administrative Agent, within 120 days after the end of each fiscal year ending after the Effective Date, a certificate from an Authorized Representative of the Borrower stating that a review of the activities of the Borrower and the Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Authorized Representative with a view to determining whether the Borrower has kept, observed, performed and fulfilled their obligations under this Agreement and the other Loan Documents, and further stating, as to each such Authorized Representative signing such certificate, that, to the best of his or her knowledge, the Borrower and the Restricted Subsidiaries

have kept, observed, performed and fulfilled each and every covenant contained in this Agreement and the other Loan Documents applicable to them and are not in default in the performance or observance of any of the terms, provisions and conditions thereof (or, if a Default or Event of Default shall have occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Borrower is taking or proposes to take with respect thereto).

- (b) The Borrower shall, so long as any of the Loans are outstanding, deliver to the Administrative Agent, within 10 Business Days of any of its Authorized Representatives becoming aware of any Default or Event of Default, a written statement specifying such Default or Event of Default and what action the Borrower is taking or proposes to take with respect thereto.
- 7.05 <u>Payment of Taxes</u>. The Borrower shall pay, and shall cause each of its Restricted Subsidiaries to pay, prior to delinquency, all taxes, assessments, and governmental levies except (i) such as are contested in good faith and by appropriate proceedings or (ii) where the failure to make such payments would not reasonably be expected to have a Material Adverse Effect.

7.06 [Reserved].

7.07 Additional Security; Additional Subsidiary Guarantors; Internal Charterers; Further Assurances.

- (a) The Borrower will, and will cause each of its Restricted Subsidiaries to, at any time and from time to time, (x) at the expense of the Borrower or such Restricted Subsidiary, promptly execute and deliver all further instruments and documents, and take all further action, that may be reasonably necessary, or that the Administrative Agent may reasonably require, to perfect, preserve, protect and maintain any Lien granted or purported to be granted hereby or by the other Loan Documents, or to enable the Pari Passu Collateral Agent to exercise and enforce its rights and remedies with respect to any Collateral and (y) keep on board the Collateral Rig each such document or record as may be required by law and cause such particulars relating to the relevant Collateral Rig Mortgage to be recorded as may be required by law. Without limiting the generality of the foregoing, the Borrower will execute and file, or cause to be filed, such financing or continuation statements under the UCC (or any non-U.S. equivalent thereto), or amendments thereto, such amendments or supplements to any Collateral Rig Mortgage, and such other instruments or notices, as may be reasonably necessary, or that the Administrative Agent may reasonably require, to perfect, preserve, protect and maintain the Liens granted or purported to be granted hereby and by the Loan Documents.
- (b) The Borrower and the other Loan Parties hereby authorize the Pari Passu Collateral Agent to file one or more financing or continuation statements under the UCC (or any non-U.S. equivalent thereto), and amendments thereto, relative to all or any part of the Collateral without the signature of the Borrower or any other Loan Party, where permitted by law. The Pari Passu Collateral Agent will promptly send the Borrower a copy of any financing or continuation statements which it may file without the signature of the Borrower or any other Loan Party and the filing or recordation information with respect thereto.

- (c) (1) If at any time (w) any Subsidiary of the Borrower becomes a Collateral Vessel-Owning Subsidiary, (x) any Collateral Vessel-Owning Subsidiary forms or acquires any new direct or indirect Restricted Subsidiary that would be required to become a Subsidiary Guarantor in accordance with the definition thereof, (y) any Subsidiary of the Borrower becomes an Equity-Owning Subsidiary or (z) any Subsidiary of the Borrower becomes an Internal Charter (each such new or additional Collateral Vessel-Owning Subsidiary, Equity-Owning Subsidiary, Internal Charterer or Restricted Subsidiary, an "Additional Subsidiary Guarantor"), such Additional Subsidiary Guarantor shall be required to execute and deliver to the Administrative Agent or Pari Passu Collateral Agent, as applicable, a supplement to each of the U.S. Subsidiary Guaranty and (other than in the case of an Equity-Owning Subsidiary) the U.S. Security Agreement, in each case, substantially in the form attached thereto (and/or, in the case of Foreign Subsidiaries of the Borrower, upon the request of the Administrative Agent and based on advice of local counsel, such Foreign Subsidiary Guaranties as would have been entered into by the respective Additional Subsidiary Guarantor if same had been a Subsidiary Guarantor on the Effective Date (determined in accordance with the criteria described in the definition of "Collateral and Guaranty Requirements")), and in each case shall take all actions in connection therewith as would otherwise have been required to be taken pursuant to Section 6 if such Subsidiary had been a Loan Party on the Effective Date, including delivery of legal opinions and, with respect to new or additional Collateral Vessel-Owning Subsidiaries, the execution and delivery of Collateral Rig Mortgages. The Borrower agrees that each action required above by this Section 7.07(c)(1) shall be completed contemporaneously with (or, except with respect to Collateral Rig Mortgages, within 30 days of) such Subsidiary becoming an Additional Subsidiary Guarantor.
- (2) If at any time any Subsidiary of the Borrower becomes an Equity-Owning Subsidiary, such Subsidiary shall be required to execute and deliver to the Pari Passu Collateral Agent, counterparts of or a supplement (substantially in the form attached thereto), as applicable, to the U.S. Pledge Agreement (and/or, in the case of Foreign Subsidiaries of the Borrower, upon the request of the Administrative Agent and based on advice of local counsel, such Foreign Pledge Agreements as would have been entered into by the respective Equity-Owning Subsidiary if same had been an Equity-Owning Subsidiary on the Effective Date (determined in accordance with the criteria described in the definition of "Collateral and Guaranty Requirements")) and shall take all actions in connection therewith as would otherwise have been required to be taken pursuant to Section 6 if such Subsidiary had been an Equity-Owning Subsidiary on the Effective Date, including delivery of legal opinions. The Borrower agrees that each action required above by this Section 7.07(c)(II) shall be completed contemporaneously with (or within 30 days of) such Subsidiary becoming an Equity-Owning Subsidiary.
- (d) The Borrower will promptly, but in any event within five (5) Business Days, notify the Administrative Agent, in writing, of any appointment of or termination of the appointment of, an Approved Manager. Prior to or concurrently with the execution and delivery of any management Agreement, the Borrower will cause the relevant Collateral Vessel-Owning Subsidiary and Approved Manager to execute and deliver to the Administrative Agent an Assignment of Management Agreement. Prior to or concurrently with the execution and delivery of any Internal Charter, the Borrower will cause the relevant Collateral Vessel-Owning Subsidiary and Internal Charter to execute and deliver to the Administrative Agent an Assignment of Internal Charter.

7.08 <u>Limitations on Liens</u>. The Borrower will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create, incur, assume or suffer to exist (a) any Lien of any kind on any Collateral, except pursuant to a Security Document or the Intercreditor Agreement and except for Permitted Collateral Liens, or (b) any Lien of any kind securing Indebtedness on any of its property or assets that are not Collateral, except for Permitted Liens.

7.09 Limitations on Consolidation or Merger etc.

- (a) The Borrower will not directly or indirectly: (i) amalgamate, consolidate or merge with or into another Person (whether or not the Borrower is the Person formed by or surviving any such amalgamation, consolidation or merger); or (ii) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Borrower and the Restricted Subsidiaries, taken as a whole, in each case, in one transaction or a series of related transactions, including by way of liquidation or dissolution, to another Person, unless:
 - (i) either (1) the Borrower will be the surviving or continuing Person or (2) the Person formed by or surviving any such amalgamation, consolidation or merger or to which such sale, assignment, transfer, conveyance or other disposition has been made is a Person organized or existing under the laws of a Permitted Jurisdiction; <u>provided</u> that, except with respect to a Person organized or existing under the laws of Luxembourg or the United States of America, there shall be no adverse tax consequence or regulatory impact to any Lender, other than in any immaterial respect (the Borrower or such Person, as the case may be, being herein called the "<u>Successor Borrower</u>");
 - (ii) the Successor Borrower (if other than the Borrower) assumes all the Obligations of the Borrower under this Agreement and the Security Documents to which the Borrower is a party, if any, and agrees to be bound by all the provisions of this Agreement and such Security Documents pursuant to an amendment or supplement thereto or other documents or instruments, in form and substance reasonably acceptable to the Administrative Agent;
 - (iii) immediately before and after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing;
 - (iv) except with respect to a transaction solely between or among the Borrower and any of the Restricted Subsidiaries, immediately after giving pro forma effect to such transaction, any related financing transactions and the use of proceeds therefrom and treating any Indebtedness that becomes an obligation of the Borrower or any of the Restricted Subsidiaries as a result of such transaction as having been Incurred by the Borrower or such Restricted Subsidiary, as the case may be, at the time of the transaction, either (1) the Borrower or the Successor Borrower (if other than the Borrower) would be permitted to Incur at least \$1.00 of additional Indebtedness pursuant to the Consolidated Interest Coverage Ratio test in 7.11(a) or (2) the Borrower or the Successor Borrower (if other than the Borrower) would have a Consolidated Interest Coverage Ratio for the applicable four quarter period not lower than such ratio prior to giving effect to such transaction;

- (v) in the event that the Successor Borrower is organized in a jurisdiction that is different from the jurisdiction in which Borrower was organized immediately before giving effect to such transaction, the Successor Borrower has delivered to the Administrative Agent an opinion of counsel satisfactory to the Administrative Agent stating that the obligations of the Successor Borrower under this Agreement are enforceable under the laws of such Permitted Jurisdiction, subject to customary exceptions; and
- (vi) the Borrower or Successor Borrower delivers to the Administrative Agent certificate of an Authorized Representative and opinion of counsel, in each case, stating that such amalgamation, consolidation, merger or transfer and each such amendment and supplement or other documents or instruments comply with this covenant.

For the purposes of the foregoing, entry by the Borrower or any Restricted Subsidiary of the Borrower into one or more Drilling Contracts or other charters, pool agreements or drilling contracts with respect to any Rigs will be deemed not to constitute a sale, assignment, transfer, conveyance or other disposition subject to this Section 7.09(a).

- (b) No Subsidiary Guarantor will, directly or indirectly, amalgamate, consolidate or merge with or into (whether or not such Subsidiary Guarantor is the surviving Person), another Person, other than the Borrower or another Subsidiary Guarantor, unless:
 - (i) immediately after giving effect to such transaction or series of related transactions, no Default or Event of Default exists;
 - (ii) either:
 - (1) (x) such Subsidiary Guarantor is the surviving Person or (y) the Person formed by or surviving any such consolidation or merger is a Person organized or existing under the laws of a Permitted Jurisdiction (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "Successor Guarantor") and the Successor Guarantor (if other than such Subsidiary Guarantor) expressly assumes all the obligations of such Subsidiary Guarantor under this Agreement and its Subsidiary Guaranty and any Security Documents pursuant to an amendment or supplement thereto or other documents or instruments in form and substance reasonably satisfactory to the Administrative Agent; or
 - (2) such consolidation or merger does not violate the provisions in Section 7.18;
 - (iii) the Borrower delivers to the Administrative Agent a certificate of an Authorized Representative and opinion of counsel, each stating that such merger or consolidation and each such amendment and supplement or other documents or instruments comply with this covenant;

- (iv) if applicable, the Successor Guarantor causes such amendments, supplements or other instruments with respect to the Security Documents to be executed, delivered, filed and recorded, as applicable, in such jurisdictions as may be required by applicable law to preserve and protect the Lien of the Pari Passu Collateral Agent on any Collateral owned by or transferred to the Successor Guarantor and deliver an opinion of counsel as to the enforceability thereof and such other matters as the Administrative Agent may reasonably request; and
- (v) any Collateral owned by or transferred to the Successor Guarantor shall (1) continue to constitute Collateral under this Agreement and the Security Documents, (2) be subject to the Lien in favor of the Collateral Agent for the benefit of the holders of the Pari Passu Obligations and (3) not be subject to any Lien other than Permitted Collateral Liens.
- (c) Upon any amalgamation, consolidation or merger, or any sale, assignment, transfer, conveyance or other disposition of all or substantially all of the properties or assets of the Borrower in accordance with clauses (a) and (b) above in which the Borrower is not the surviving entity, the Successor Borrower shall succeed to, and be substituted for (so that from and after the date of such amalgamation, consolidation or merger, sale, assignment, transfer, conveyance or other disposition, the provisions of the Loan Documents referring to the "Borrower" shall refer instead to the Successor Borrower and not the Borrower), and may exercise every right and power of, the Borrower under this Agreement with the same effect as if the Successor Borrower had been named as the Borrower in this Agreement, and thereafter, the Borrower will be relieved of all obligations and covenants under this Agreement and the Loan Documents

7.10 <u>Limitations on Restricted Payments</u>.

- (a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly make any Restricted Payments unless, at the time of and after giving effect to such Restricted Payment:
 - (i) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;
 - (ii) the Borrower could directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, (collectively, "Incur," "Incurrence," "Incurred" and "Incurring" shall have meanings correlative to the foregoing), at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, at least \$1.00 of additional Indebtedness pursuant to the Consolidated Interest Coverage Ratio test set forth in Section 7.11(a) and

- (iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Borrower and the Restricted Subsidiaries since the Effective Date (excluding Restricted Payments permitted by clauses (ii) through (x) of Section 7.10(b)), is less than the sum, without duplication, of:
 - (1) 50% of the Borrower's Consolidated Net Income on a consolidated basis for the period (taken as one accounting period) beginning on October 1, 2012 and ending on the last day of the Borrower's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, if such Consolidated Net Income for such period is a deficit, less 100% of such deficit); plus
 - (2) 100% of the aggregate net cash proceeds or the Fair Market Value of assets other than cash, in each case received by the Borrower or any Restricted Subsidiary from any Person other than the Borrower or any of its Subsidiaries since the Effective Date as a contribution to its common equity capital or from the issue or sale of the Borrower's Equity Interests (other than Disqualified Stock) or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities of the Borrower, in each case that have been converted into or exchanged for Equity Interests (other than Disqualified Stock) of the Borrower (other than Equity Interests, Disqualified Stock or debt securities sold to a Subsidiary of the Borrower); plus
 - (3) to the extent that any Restricted Investment that was made after the Effective Date is sold or disposed of for cash or Cash Equivalents or otherwise cancelled, liquidated or repaid for cash or Cash Equivalents, the lesser of (x) the return of capital received in cash or Cash Equivalents with respect to such Restricted Investment (less the cost of disposition, if any) and (y) the initial amount of such Restricted Investment; plus
 - (4) to the extent that any Unrestricted Subsidiary designated as such after the Effective Date is redesignated as a Restricted Subsidiary, the lesser of (x) the Fair Market Value of the Restricted Investment made by the Borrower or any of the Restricted Subsidiaries in such Subsidiary as of the date of such redesignation and (y) such Fair Market Value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary after the Effective Date.
- (b) The provisions of Section 7.10(a) will not prohibit:
 - (i) the payment of any dividend or distribution or the consummation of any irrevocable redemption within sixty (60) days after the date of declaration of the dividend or distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of this Agreement;

- (ii) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of the Borrower) of, Equity Interests of the Borrower (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Borrower; <u>provided</u> that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from Section 7.10(a)(iii)(2);
- (iii) the repurchase, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Borrower or any Subsidiary Guarantor that is contractually subordinated to the Obligations with the net cash proceeds from a substantially concurrent Incurrence of Permitted Refinancing Indebtedness;
- (iv) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary that is not a wholly owned Subsidiary of the Borrower to the holders of its Equity Interests on a pro rata basis or basis more favorable to the Borrower or its Restricted Subsidiaries;
- (v) so long as no Event of Default has occurred and is continuing, the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Borrower or any Restricted Subsidiary of the Borrower held by any current or former officer, director or employee of the Borrower or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, employee stock ownership plan or similar trust, shareholders' agreement or similar agreement; provided that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$5,000,000 in any calendar year (with any portion of such \$5,000,000 amount that is unused in any calendar year to be carried forward to successive calendar years and added to such amount);
- (vi) the purchase, redemption or other acquisition or retirement for value of Equity Interests deemed to occur upon the exercise or conversion of stock options, warrants, rights to acquire Equity Interests or other convertible securities, to the extent such Equity Interests represent a portion of the exercise or conversion price thereof or the purchase, redemption or other acquisition or retirement for value of Equity Interests of the Borrower or any Restricted Subsidiary of the Borrower held by any current or former officers, directors or employees of the Borrower or any of its Restricted Subsidiaries in connection with the exercise or vesting of any equity compensation (including, without limitation, stock options, restricted stock and phantom stock) in order to satisfy any tax withholding obligation with respect to such exercise or vesting;
- (vii) any purchase, redemption, defeasance or other acquisition or retirement of any Indebtedness subordinated to the Obligations from proceeds of an Asset Sale or in the event of a Change of Control, in each case only if prior to or simultaneously with such purchase, redemption, defeasance or other acquisition or retirement, the Borrower or a Restricted Subsidiary has made the Asset Sale Offer or Change of Control Offer, as applicable, as provided in this Agreement and has completed the repurchase or redemption of all Loans validly tendered for payment in connection with such Asset Sale Offer or Change of Control Offer in accordance with the requirements of this Agreement;

- (viii) so long as no Event of Default has occurred and is continuing, the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Borrower or any Preferred Stock of any Restricted Subsidiary of the Borrower issued on or after the Effective Date in accordance with the covenant described in Section 7.11;
- (ix) cash payments in lieu of the issuance of fractional shares, or payments to dissenting stockholders (x) pursuant to applicable law or (y) in connection with the settlement or other satisfaction of legal claims made pursuant to or in connection with a consolidation, merger or transfer of assets in connection with a transaction that is not prohibited by this Agreement; and
- (x) so long as no Event of Default has occurred and is continuing, any other Restricted Payment so long as the amount of such Restricted Payment, together with the aggregate amount of all other Restricted Payments made under this clause (x) since the Effective Date, does not exceed the greater of (x) \$125,000,000 and (y) 2.5% of Consolidated Net Tangible Assets as of the date such Restricted Payment is made.
- (c) The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Borrower or any Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For purposes of determining compliance with this Section 7.10, in the event that a Restricted Payment meets the criteria of more than one of the categories of Restricted Payments described in Section 7.10(a) or the preceding Sections 7.10(b)(i) through 7.10(b)(x) or as a Permitted Investment, the Borrower will be permitted to divide or classify (or later divide, classify or reclassify in whole or in part in its sole discretion) such Restricted Payment in any manner that complies with this covenant.

7.11 <u>Limitations on Indebtedness</u>.

- (a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, Incur any Indebtedness (including Acquired Debt) or issue any Disqualified Stock, and the Borrower will not permit any of the Restricted Subsidiaries to issue any shares of Preferred Stock; provided, however, that the Borrower or any Restricted Subsidiary may Incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and any Restricted Subsidiary may issue Preferred Stock, if the Consolidated Interest Coverage Ratio for the Borrower's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.0 to 1.0, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness, Disqualified Stock or Preferred Stock had been Incurred or issued, as the case may be, at the beginning of such four-quarter period.
 - (b) The provisions of Section 7.11(a) will not prohibit the Incurrence of Permitted Debt.

- (c) For purposes of determining compliance with this Section 7.11, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt, or is entitled to be Incurred pursuant to Section 7.11(a), the Borrower or the applicable Restricted Subsidiary will be permitted to classify such item of Indebtedness (or any portion thereof) on the date of its Incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this covenant. The accrual of interest or Preferred Stock dividends, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of Preferred Stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Preferred Stock or Disqualified Stock in the form of additional shares of the same class of Preferred Stock or Disqualified Stock will not be deemed to be an Incurrence of Indebtedness or an issuance of Preferred Stock or Disqualified Stock for purposes of this covenant; provided, in each such case, that the amount of any such accrual, accretion or payment is included in Consolidated Interest Expense of the Borrower as accrued. Further, the reclassification of any lease or other liability of the Borrower or any Restricted Subsidiary as Indebtedness due to a change of accounting principles after the Effective Date will not be deemed an incurrence of Indebtedness for purposes of this covenant.
- (d) For purposes of determining compliance with any dollar-denominated restriction on the Incurrence of Indebtedness, the Dollar Equivalent of the principal amount of Indebtedness denominated in another currency will be utilized, calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of Indebtedness Incurred under a revolving credit facility; provided that (i) if such Indebtedness is Incurred to refinance other Indebtedness denominated in a currency other than dollars, and such refinancing would cause the applicable dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced and (ii) the Dollar Equivalent of the principal amount of any such Indebtedness outstanding on the Effective Date will be calculated based on the relevant currency exchange rate in effect on the Effective Date.
- (e) Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Borrower or the applicable Restricted Subsidiary may Incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

The amount of any Indebtedness outstanding as of any date will be:

- (1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;
- (2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and

- (3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:
 - (a) the Fair Market Value of such assets at the date of determination;
 - (b) the amount of the Indebtedness of the other Person; and
- (4) in the case of Hedging Obligations, the termination value of the agreement or arrangement giving rise to such Hedging Obligations that would be payable by the specified Person at such date.

7.12 Transactions with Affiliates.

- (a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Borrower and any Restricted Subsidiary (each, an "Affiliate Transaction") involving, with respect to any such transaction or series of related transactions, payments or consideration in excess of \$1,000,000, unless:
 - (i) the Affiliate Transaction is on terms that are either (1) no less favorable to the Borrower or the relevant Restricted Subsidiary than those that could have been obtained in a comparable arm's-length transaction by the Borrower or such Restricted Subsidiary with a Person that is not an Affiliate of the Borrower and any Restricted Subsidiary or (2) if in the good faith judgment of the Borrower's Board of Directors, no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Borrower or the relevant Restricted Subsidiary from a financial point of view; and
 - (ii) the Borrower delivers to the Administrative Agent:
 - (1) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$25,000,000, a resolution of the Board of Directors of the Borrower set forth in a certificate of an Authorized Representative certifying that such Affiliate Transaction or series of related Affiliate Transactions complies with this covenant and that such Affiliate Transaction or series of related Affiliate Transactions has been approved by a majority of the disinterested members of the Board of Directors of the Borrower; and
 - (2) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$50,000,000, an opinion issued to the Board of Directors of the Borrower by an accounting, appraisal or investment banking firm of international standing or generally recognized in the shipping or offshore drilling industries as qualified to perform the tasks for which such firm has been engaged as to the fairness to the Borrower or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view or that the terms of such

Affiliate Transaction are no less favorable to the Borrower or the relevant Restricted Subsidiary than those that could have been obtained in a comparable arm's-length transaction by the Borrower or such Restricted Subsidiary with a Person that is not an Affiliate of the Borrower and any Restricted Subsidiary.

- (b) For the avoidance of doubt, with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration of \$25,000,000 or less, the determination that such Affiliate Transaction or series of Affiliate Transactions complies with this covenant may be made by a Financial Officer of the Borrower.
- (c) The following items will not be deemed to be Affiliate Transactions, as applicable, and, therefore, will not be subject to the provisions of Sections 7.12(a) or 7.12(b):
 - (i) any employment agreement, employee benefit plan, compensation plan or arrangement, officer or director indemnification agreement or any similar arrangement entered into by the Borrower or any of its Subsidiaries in the ordinary course of business and payments pursuant thereto;
 - (ii) payment of reasonable directors' fees to directors of the Borrower or any Restricted Subsidiary;
 - (iii) transactions solely between or among the Borrower and/or any of its Restricted Subsidiaries;
 - (iv) the issuance or sale of Equity Interests (other than Disqualified Stock) of the Borrower to, or receipt of capital contributions from, Affiliates of the Borrower;
 - (v) loans or advances to employees of the Borrower or any Restricted Subsidiary in the ordinary course of business not to exceed \$7,500,000 in the aggregate at any one time outstanding;
 - (vi) transactions with a Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Borrower solely because the Borrower owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;
 - (vii) Permitted Investments and Restricted Payments that do not violate Section 7.10;
 - (viii) transactions between the Borrower or any of its Restricted Subsidiaries and any Person that would not otherwise constitute an Affiliate Transaction except for the fact that one director of such other Person is also a director of the Borrower or such Restricted Subsidiary, as applicable; <u>provided</u> that such director abstains from voting as a director of the Borrower or such Restricted Subsidiary, as applicable, on any matter involving such other Person; and
 - (ix) any agreement as in effect on the Effective Date or any amendments, renewals or extensions of any such agreement (so long as such amendments, renewals or extensions are not less favorable to the Lenders).

7.13 Limitations on Dividends and Other Payment Restrictions Affecting Subsidiaries.

- (a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, create or permit to become effective any consensual encumbrance or restriction on the ability of any of the Restricted Subsidiaries to:
 - (i) pay dividends or make any other distributions on its Capital Stock to the Borrower or any of the Restricted Subsidiaries, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Borrower or any of the Restricted Subsidiaries; <u>provided</u> that the priority that any series of preferred stock of a Restricted Subsidiary has in receiving dividends or liquidating distributions before dividends or liquidating distributions are paid in respect of common stock of such Restricted Subsidiary shall not constitute a restriction on the ability to make dividends or distributions on Capital Stock for purposes of this covenant;
 - (ii) make loans or advances to the Borrower or any of the Restricted Subsidiaries; or
 - (iii) sell, lease or transfer any of its properties or assets to the Borrower or any of the Restricted Subsidiaries (all such actions set forth in these clauses (i) through (iii) above being collectively referred to as "Intercompany Transfers").
- (b) However, the preceding restrictions will not apply to encumbrances or restrictions on the ability of any of the Restricted Subsidiaries to make Intercompany Transfers existing under or by reason of:
 - (i) agreements governing Indebtedness as in effect on the Effective Date, including under the Revolving Credit Agreement, this Agreement, the Senior Notes, the SSCF and the Existing PDV Notes indenture, in each case as in effect on the Effective Date:
 - (ii) restrictions contained in, or in respect of, Hedging Obligations permitted to be Incurred by this Agreement;
 - (iii) the Loan Documents;
 - (iv) applicable law, rule, regulation or order;
 - (v) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Borrower or any of the Restricted Subsidiaries as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was Incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person,

other than the Person, or the property or assets of the Person, so acquired; <u>provided</u> that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Agreement to be Incurred;

- (vi) customary non-assignment provisions in contracts and licenses entered into in the ordinary course of business;
- (vii) purchase money obligations for property acquired in the ordinary course of business, mortgage financings and Capital Lease Obligations that impose restrictions on the property purchased or mortgaged or leased of the nature described in Section 7.13(a)(iii):
- (viii) any agreement for the sale or other disposition of the Capital Stock or all or substantially all of the assets of any Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;
- (ix) Liens permitted to be Incurred under Section 7.08 that limit the right of the debtor to dispose of the assets subject to such Liens;
- (x) provisions limiting the disposition or distribution of assets or property in joint venture agreements, partnership agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable only to the assets that are the subject of such agreements;
- (xi) restrictions on cash or other deposits or net worth imposed by customers or suppliers or required by insurance, surety or bonding companies, in each case, under contracts entered into in the ordinary course of business;
- (xii) any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in Sections 7.13(b)(i), 7.13(b)(iii), 7.13(b)(v) and 7.13(b) (vii); provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, not materially more restrictive with respect to such encumbrance and other restrictions taken as a whole than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing;
- (xiii) encumbrances or restrictions of the nature described in Section 7.13(a)(iii) with respect to property under a charter, lease or other agreement that has been entered into in the ordinary course for the employment, charter or other hire of such property; and
- (xiv) instruments governing Indebtedness that is permitted to be Incurred subsequent to the Effective Date pursuant to Section 7.11; <u>provided</u> that, at the time such Indebtedness is Incurred, either (1) such encumbrance or restriction is customary for financings of the same type, and such restrictions would not reasonably be expected to materially impair the Borrower's ability to make scheduled payments of interest and principal on the Term Loans when due or any Subsidiary Guarantor's ability

to make payment of its Obligations, as determined in good faith by the Board of Directors of Borrower or a Financial Officer of the Borrower or (2) restrictions therein are not materially more restrictive, taken as a whole, than those contained in (x) the Loan Documents, the 2013 Indenture and the Senior Notes or (y) the Revolving Credit Agreement, the SSCF or the Existing PDV Notes indenture as in effect on the Effective Date, as determined in good faith by the Board of Directors or a Financial Officer of the Borrower.

7.14 [Reserved].

- 7.15 <u>Designating Unrestricted Subsidiaries and Restricted Subsidiaries</u>.
- (a) The Board of Directors of the Borrower may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if:
 - (i) the Borrower would be permitted to make (1) a Permitted Investment or (2) an Investment pursuant to Section 7.10 above, in either case, in an amount equal to the Fair Market Value of all outstanding Investments owned by the Borrower and the Restricted Subsidiaries in such Subsidiary at the time of such designation;
 - (ii) such Restricted Subsidiary meets the definition of an "Unrestricted Subsidiary";
 - (iii) the designation would not constitute or cause (with or without the passage of time) a Default or Event of Default or no Default and Event of Default would be in existence following such designation; and
 - (iv) the Borrower delivers to the Administrative Agent a certified copy of a resolution of the Board of Directors of Borrower giving effect to such designation and a certificate of an Authorized Representative certifying that such designation complied with the preceding conditions and was permitted under to Section 7.10.

If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Borrower and the Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under to Section 7.10 or under one or more clauses of the definition of Permitted Investments, as determined by the Borrower.

If, at any time, any Unrestricted Subsidiary designated as such would fail to meet the preceding requirements as an Unrestricted Subsidiary, then such Subsidiary will thereafter cease to be an Unrestricted Subsidiary for purposes of this Agreement and any Indebtedness of such Subsidiary will be deemed to be Incurred by a Restricted Subsidiary as of such date and, if such Indebtedness is not permitted to be Incurred as of such date under the covenant set forth under Section 7.11 the Borrower or the applicable Restricted Subsidiary will be in default of such covenant.

- (b) The Board of Directors of the Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary if:
 - (i) the Borrower and the Restricted Subsidiaries could Incur the Indebtedness which is deemed to be Incurred upon such designation under Section 7.11, equal to the total Indebtedness of such Subsidiary calculated on a pro forma basis as if such designation had occurred on the first day of the four-quarter reference period;
 - (ii) the designation would not constitute or cause a Default or Event of Default; and
 - (iii) the Borrower delivers to the Administrative Agent a certified copy of a resolution of the Board of Directors of the Borrower giving effect to such designation and a certificate of an Authorized Representative certifying that such designation complied with the preceding conditions, including the Incurrence of Indebtedness under Section 7.11.
- 7.16 <u>Business</u>. The Borrower will not, and will not permit any of the Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Borrower and the Restricted Subsidiaries taken as a whole.
- 7.17 Rights to Earnings from the Collateral Rigs. The Borrower will not permit any of its Subsidiaries (other than any Subsidiary Guarantor) to be or become party to a Drilling Contract in respect of a Collateral Rig (including as a charterer of a Collateral Rig) or otherwise hold the right to directly receive any Earnings or any other Related Assets with respect to a Collateral Rig; provided, that a Local Content Subsidiary may be a party to a Drilling Contract in respect of a Collateral Rig or otherwise hold the right to receive Earnings or to any Related Assets with respect to a Collateral Rig to the extent required by any law or regulation of any applicable jurisdiction, so long as such Local Content Subsidiary does not receive more than 20% of the Earnings or Related Assets with respect to such Collateral Rig. The Borrower shall, or shall cause one or more of the Subsidiary Guarantors to, at all times maintain the Earnings Accounts, and each Earnings Account shall at all times be in the name of the Borrower or a Subsidiary Guarantor.

7.18 Limitation on Asset Sales.

- (a) The Borrower will not, and will not permit any of the Restricted Subsidiaries to, directly or indirectly, consummate any Asset Sale unless:
 - (i) the Borrower or the Restricted Subsidiary, as the case may be, receives consideration at the time of consummation of such Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and
 - (ii) at least 75% of the consideration received in such Asset Sale by the Borrower or such Restricted Subsidiary is in the form of cash or Cash Equivalents; <u>provided</u>, <u>however</u>, to the extent that any disposition in such Asset Sale was of Collateral, the non-cash consideration received is pledged as Collateral under the Security Documents within 20 Relevant Business Days, in accordance with the requirements set forth in this Agreement;

provided, that the foregoing requirements shall not apply with respect to any Involuntary Transfer.

- (b) For purposes of Section 7.18(a)(ii), each of the following will be deemed to be cash:
 - (i) any Indebtedness or other liabilities, as shown on the Borrower's most recent consolidated balance sheet, of the Borrower or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Obligations) that are assumed, repaid or retired by the transferee of any such assets so long as the Borrower or such Restricted Subsidiary is released from further liability;
 - (ii) any securities, notes or other obligations received by the Borrower or any such Restricted Subsidiary from such transferee that are, within one hundred eighty (180) days after receipt thereof, converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents, to the extent of the cash or Cash Equivalents received in that conversion; and
 - (iii) any stock or assets of the kind referred to in Sections 7.18(c)(ii) or 7.18(c)(iv).
- (c) Within 365 days after the receipt of any Net Proceeds from an Asset Sale (including, without limitation, an Involuntary Transfer), the Borrower or the applicable Restricted Subsidiary, as the case may be, may apply such Net Proceeds at its option to any combination of the following:
 - (i) to purchase, repay or prepay Pari Passu Obligations or other secured Indebtedness of the Borrower or any Subsidiary Guarantor or, in the case of an Asset Sale other than of Collateral, any Indebtedness (other than Indebtedness that is subordinated in right of payment to the Obligations, whether or not secured (including, without limitation, prepayments of Term Loans)) of the Borrower or any Restricted Subsidiary (and, to the extent required pursuant to the terms of the Revolving Credit Agreement (as in effect on the Effective Date) in the case of revolving obligations, to correspondingly reduce commitments with respect thereto);
 - (ii) to acquire all or substantially all of the assets of, or any Capital Stock of, any Person primarily engaged in a Permitted Business, if, in the case of any such acquisition of Capital Stock, such Person is or becomes a Restricted Subsidiary after giving effect to such acquisition;
 - (iii) to make a capital expenditure for the Borrower or any of its Restricted Subsidiaries; or
 - (iv) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business (including, without limitation,

Rigs, related assets and any related Ready for Sea Costs) for the Borrower or any of the Restricted Subsidiaries or make any deposit, installment or progress payment in respect of such assets or payment of any related Ready for Sea Costs,

provided that (a) a binding commitment made within the 365-day period described above by the Borrower or the applicable Restricted Subsidiary to apply Net Proceeds from an Asset Sale in accordance with Sections 7.18(c)(ii), 7.18(c)(iii) and/or 7.18(c)(iv) above shall satisfy the requirements of such clauses with respect to such Net Proceeds, so long as (i) with respect to any binding commitment to purchase, acquire or construct an Additional Vessel with such Net Proceeds, such Net Proceeds are actually so applied within the later of three hundred sixty-five (365) days from the receipt thereof from such Asset Sale and three hundred sixty-five (365) days from the date any such binding commitment is made, and (ii) with respect to any other binding commitment to apply Net Proceeds pursuant to such clauses, such Net Proceeds are actually so applied within the later of three hundred sixty-five (365) days from the receipt thereof from such Asset Sale and one hundred eighty (180) days from the date any such binding commitment is made, and (y) if all or any portion of the assets sold or transferred in such Asset Sale constituted Collateral, in the case of any application of Net Proceeds pursuant to Sections 7.18(c)(ii) or 7.18(c)(iv), the Borrower shall, or shall cause the applicable Restricted Subsidiary to, pledge any assets (including, without limitation, any acquired Capital Stock) acquired with such Net Proceeds to secure the Pari Passu Obligations on a first-priority secured basis (subject to the payment priority in favor of the holders of Revolving Credit Obligations set forth in the Intercreditor Agreement and subject to Permitted Collateral Liens) pursuant to the Security Documents in accordance with this Agreement.

- (d) Pending the final application of any Net Proceeds, the Borrower or the applicable Restricted Subsidiary may apply the Net Proceeds to temporarily reduce outstanding revolving credit Indebtedness of the Borrower or any of the Restricted Subsidiaries, respectively, or invest the Net Proceeds in cash and Cash Equivalents.
- (e) Any Net Proceeds from Asset Sales that are not applied or invested as provided in Section 7.18(c) will constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds \$25,000,000, the Borrower will, within ten (10) business days thereof, make an offer (an "Asset Sale Offer") to all Lenders and the Borrower will, or will cause the applicable Restricted Subsidiary, to make an Asset Sale Offer to all holders of unsubordinated Indebtedness of the Borrower or such Restricted Subsidiary containing provisions similar to those set forth in this Agreement with respect to offers to purchase or redeem such Indebtedness with the proceeds of sales of assets to purchase or redeem the maximum principal amount of Loans and such unsubordinated Indebtedness that may be purchased or redeemed out of the Excess Proceeds; provided, that to the extent such Excess Proceeds were received in respect of the sale or transfer of assets that constituted Collateral, an Asset Sale Offer will be made solely to holders of Pari Passu Obligations. The offer price in any Asset Sale Offer will be equal to 100% of the principal amount, plus accrued and unpaid interest, if any, to the date of purchase, subject to the rights of the Lenders on the relevant record date to receive interest due on the relevant interest payment date, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Borrower and the Restricted Subsidiaries may use those Excess Proceeds for any purpose not otherwise prohibited by this Agreement. If the aggregate principal amount of Indebtedness tendered in such Asset Sale Offer exceeds the

amount of Excess Proceeds, the tendered Loans will be purchased on a pro rata basis and, if applicable, the Borrower will select such other Indebtedness for purchase or redemption based on amounts tendered or required to be prepaid. For the purposes of calculating the principal amount of any such Indebtedness not denominated in U.S. dollars, such Indebtedness shall be calculated by converting any such principal amounts into their Dollar Equivalent determined as of the business day immediately prior to the date on which the Asset Sale Offer is announced. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

- (f) Notwithstanding anything to the contrary contained in this Section 7.18 with respect to any Asset Sale that is an Event of Loss, such Event of Loss and the Event of Loss Proceeds in respect thereof will be governed by Section 4.02(a) and not this Section 7.18.
- (g) In the event that, pursuant to this section 7.18, the Borrower is required to commence an Asset Sale Offer, each such Asset Sale Offer shall remain open for a period of at least 20 Business Days following its commencement and not more than 30 Business Days, except to the extent that a longer period is required by applicable law (the "Asset Sale Offer Period"). No later than five Business Days after the termination of the Asset Sale Offer Period (the "Asset Sale Offer Settlement Date"), the Issuer shall apply all Excess Proceeds as set forth above.
- (h) Upon the commencement of an Asset Sale Offer, the Borrower shall deliver a notice to the Administrative Agent, which the Administrative Agent shall promptly deliver to each Lender. The notice shall state:
 - (i) that the Asset Sale Offer is being made pursuant to this Section 7.18 and the length of time the Asset Sale Offer shall remain open, including the time and date the Asset Sale Offer will terminate (the "Asset Sale Offer Termination Date");
 - (ii) the amount of Excess Proceeds, the offer price (as set forth above) and the Asset Sale Offer Settlement Date;
 - (iii) that the Lenders electing to have any Loans purchased pursuant to any Asset Sale Offer shall be required to notify the Borrower and the Administrative Agent at least one Business Day before the Asset Sale Offer Termination Date; and
 - (iv) that Lenders shall be entitled to withdraw their election if the Administrative Agent, receives, prior to the Asset Sale Offer Termination Date, a facsimile transmission or letter setting forth the name of the Lender, a statement that such Lender is withdrawing its election to have its Loans purchased and the principal amount of the Loans with respect to which such Lender is withdrawing its election.

SECTION 8. Events of Default. Each of the following specified events shall constitute an "Event of Default":

8.01 <u>Payments</u>. The Borrower shall (a) default in the payment when due of any principal of any Loan or any Note or (b) default, and such default shall continue unremedied for 30 or more Business Days, in the payment when due of any interest on any Loan or Note or any Fees or any other amounts owing hereunder or under any other Loan Document; or

8.02 <u>Representations, etc.</u> Any representation, warranty or statement made or deemed made by any Loan Party herein or in any other Loan Document or in any certificate delivered to the Administrative Agent or any Lender pursuant hereto or thereto shall prove to be untrue or misleading in any material respect on the date as of which made or deemed made; or

8.03 Covenants.

- (a) Failure by the Borrower or any Subsidiary Guarantor to comply with Section 7.09; or
- (b) (i) except with respect to Section 7.03, failure by the Borrower or any of the Restricted Subsidiaries for 60 days after notice to the Borrower by the Administrative Agent to comply with any covenant or agreement (other than a default referred to in Sections 8.01 or 8.03(a)) or the Security Documents, or (ii) failure by the Borrower for 120 days after notice to the Borrower by the Administrative Agent to comply with Section 7.03.
- 8.04 <u>Cross Default</u>. Default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness for money borrowed by the Borrower or any of the Restricted Subsidiaries (or the payment of which is guaranteed by the Borrower or any of the Restricted Subsidiaries), whether such Indebtedness or guarantee now exists or is created after the Effective Date, if that default:
- (a) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or
 - (b) results in the acceleration of such Indebtedness prior to its Stated Maturity,

and, in either case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$25,000,000 or more; provided, however, that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 60 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default and any consequential acceleration of the Loans shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree:

8.05 <u>Judgments</u>. Failure by the Borrower or any of the Restricted Subsidiaries to pay final judgments entered by a court or courts of competent jurisdiction aggregating in excess of \$25,000,000, which judgments are not paid, discharged or stayed for a period of 60 days;

8.06 Security Documents.

(a) the Security Documents shall for any reason cease to create a valid and perfected first-priority Lien (subject to payment priorities in favor of holders of Revolving Credit Obligations pursuant to the terms of the Intercreditor Agreement described herein and subject to Permitted Liens) on any portion of the Collateral having a Fair Market Value in excess of \$25,000,000 (in each case, other than in accordance with the terms of this Agreement, the Intercreditor Agreement or the terms of the Security Documents) or (b) the Borrower or any Restricted Subsidiary asserts in writing that any Lien created under the Security Documents is invalid or unenforceable;

8.07 <u>Guarantees</u>. Except as permitted by this Agreement or any Subsidiary Guaranty, any Subsidiary Guaranty of a Significant Subsidiary is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Subsidiary Guarantor that is a Significant Subsidiary, or any Person duly acting on behalf of any such Subsidiary Guarantor, denies or disaffirms its obligations under its Subsidiary Guaranty; and

8.08 <u>Bankruptcy</u>, etc. The Borrower or any Restricted Subsidiary that is a Significant Subsidiary, or any group of Restricted Subsidiaries that, taken together, would constitute a Significant Subsidiary, takes any of the following actions, pursuant to or within the meaning of any Bankruptcy Law:

- (a) commences a voluntary case,
- (b) consents in writing to the entry of an order for relief against it in an involuntary case,
- (c) consents in writing to the appointment of a Custodian of it or for all or substantially all of its property,
- (d) makes a general assignment for the benefit of its creditors, or
- (e) admits in writing it generally is not paying its debts as they become due; or
- (f) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (i) is for relief against the Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, in an involuntary case;
 - (ii) appoints a Custodian (1) of the Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary, or (2) for all or substantially all of the property of the Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary; or
 - (iii) orders the liquidation of the Borrower, any Restricted Subsidiary that is a Significant Subsidiary or any group of Restricted Subsidiaries that, taken as a whole, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days.

In the case of an Event of Default described in this Section 8.08 with respect to the Borrower or a Subsidiary Guarantor, all outstanding Obligations will become due and

payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Administrative Agent or the Required Lenders may (and the Administrative Agent will, if directed by the Required Lenders) declare all the Loans to be due and payable immediately.

Notwithstanding the foregoing, the Required Lenders by notice to the Administrative Agent may, on behalf of all Lenders, rescind an acceleration or waive any existing Default or Event of Default and its consequences under the Agreement except a continuing Default or Event of Default in the payment of principal of, or premium, if any, interest, if any, on, the Loans (other than a payment Default or Event of Default that resulted from an acceleration that has been rescinded).

SECTION 9. The Administrative Agent.

9.01 Appointment. The Lenders in their capacities as Lenders hereby irrevocably designate and appoint Citibank, N.A., as Administrative Agent to act as specified herein and in the other Loan Documents. Each Lender hereby irrevocably authorizes, and each holder of any Note by the acceptance of such Note shall be deemed irrevocably to authorize, the Administrative Agent to take such action on its behalf under the provisions of this Agreement, the other Loan Documents and any other instruments and agreements referred to herein or therein and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of the Administrative Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto. The Administrative Agent may perform any of its respective duties hereunder by or through its officers, directors, agents, employees or affiliates.

9.02 Nature of Duties .

- (a) The Administrative Agent shall not have any duties or responsibilities except those expressly set forth in this Agreement and in the other Loan Documents. Neither the Administrative Agent nor any of its officers, directors, agents, employees or affiliates shall be liable for any action taken or omitted by it or them hereunder or under any other Loan Document or in connection herewith or therewith, unless caused by its or their gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non–appealable decision). The duties of the Administrative Agent shall be mechanical and administrative in nature; the Administrative Agent shall not have by reason of this Agreement or any other Loan Document a fiduciary relationship in respect of any Lender or the holder of any Note, and nothing in this Agreement or in any other Loan Document, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect of this Agreement or any other Loan Document except as expressly set forth herein or therein.
- (b) It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent in such capacity is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

- (c) The Administrative Agent, in such capacity, shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:
 - (i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or an Event of Default has occurred and is continuing;
 - (ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and
 - (iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.
- 9.03 Lack of Reliance on the Administrative Agent. Independently and without reliance upon the Administrative Agent, each Lender and the holder of each Note, to the extent it deems appropriate, has made and shall continue to make (a) its own independent investigation of the financial condition and affairs of the Borrower and its Subsidiaries in connection with the making and the continuance of the Loans and the taking or not taking of any action in connection herewith and (b) its own appraisal of the creditworthiness of the Borrower and its Subsidiaries and, except as expressly provided in this Agreement, the Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Lender or the holder of any Note with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter. The Administrative Agent shall not be responsible to any Lender or the holder of any Note for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectability, priority or sufficiency of this Agreement or any other Loan Document or the financial condition of the Borrower and its Subsidiaries or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement or any other Loan Document, or the financial condition of the Borrower and its Subsidiaries or the existence or possible existence of any Default or Event of Default.

9.04 <u>Certain Rights of the Administrative Agent</u>. If the Administrative Agent requests instructions from the Required Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Loan Document, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and

until the Administrative Agent shall have received instructions from the Required Lenders; and the Administrative Agent shall not incur liability to any Lender by reason of so refraining. Without limiting the foregoing, neither any Lender nor the holder of any Note shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any other Loan Document in accordance with the instructions of the Required Lenders.

9.05 <u>Reliance</u>. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, telex, teletype or telecopier message, cablegram, radiogram, order or other document or telephone message signed, sent or made by any Person that the Administrative Agent believed to be the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Loan Document and its duties hereunder and thereunder, upon advice of counsel selected by the Administrative Agent.

9.06 <u>Indemnification</u>. To the extent the Administrative Agent or the Pari Passu Collateral (or any of their respective Affiliates) is not reimbursed and indemnified by the Borrower, the Lenders will reimburse and indemnify the Administrative Agent or the Pari Passu Collateral Agent, as applicable (and their respective Affiliates and their respective partners, members, directors, officers, agents, employees and controlling persons (if any), as the case may be, of the Administrative Agent, the Pari Passu Collateral Agent and such Affiliate) in proportion to their respective Percentages, for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent or the Pari Passu Collateral Agent (or any of their respective Affiliates) in performing its duties hereunder or under any other Loan Document, or in any way relating to or arising out of this Agreement or any other Loan Document; <u>provided</u> that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's or the Pari Passu Collateral Agent's (or such Affiliate's) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision); <u>provided</u>, <u>further</u>, that nothing in this Section 9.06 shall serve to relieve any Loan Party of its indemnification obligations under this Agreement and the other Loan Documents.

9.07 The Administrative Agent in its Individual Capacity. With respect to its obligation to make Loans under this Agreement, Citibank, N.A. shall have the rights and powers specified herein for a "Lender" and may exercise the same rights and powers as though it were not performing the Administrative Agent duties specified herein; and the term "Lender," "Required Lenders" or any similar terms shall, unless the context clearly indicates otherwise, include Citibank, N.A. in its respective individual capacities. The Administrative Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, investment banking, trust or other business with, or provide debt financing, equity capital or other services (including financial advisory services) to any Loan Party or any Affiliate of any Loan Party (or any Person engaged in a similar business with any Loan Party or any Affiliate thereof) as if they were not performing the duties specified herein, and may accept fees and other consideration from any Loan Party or any Affiliate of any Loan Party for services in connection with this Agreement and otherwise without having to account for the same to the Lenders.

9.08 <u>Holders</u>. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment, transfer or endorsement thereof, as the case may be, shall have been filed with the Administrative Agent. Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is the holder of any Note shall be conclusive and binding on any subsequent holder, transferee, assignee or endorsee, as the case may be, of such Note or of any Note issued in exchange therefor.

9.09 Resignation by the Administrative Agent.

- (a) The Administrative Agent may resign from the performance of all its respective functions and duties hereunder and/or under the other Loan Documents at any time by giving written notice to the Lenders and, unless a Default or an Event of Default under Section 8.08 then exists, the Borrower. Such resignation shall take effect upon the appointment of a successor Administrative Agent pursuant to clauses (b) and (c) below or as otherwise provided below.
- (b) Upon any such notice of resignation by the Administrative Agent, the Required Lenders shall appoint a successor Administrative Agent hereunder or thereunder who shall be a commercial bank or trust company reasonably acceptable to the Borrower, which acceptance shall not be unreasonably withheld or delayed (<u>provided</u> that the Borrower's approval shall not be required if an Event of Default then exists).
- (c) If a successor Administrative Agent shall not have been so appointed within 15 days of the date of the applicable notice of resignation, the Administrative Agent may then (but is not obligated to) appoint a successor Administrative Agent who shall serve as Administrative Agent hereunder or thereunder until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above.
- (d) The Administrative Agent's resignation will, to the fullest extent permitted by applicable law, be effective on the earlier of (i) the date a replacement Administrative Agent is appointed and (ii) the date 30 days after the giving of such notice of resignation by the Administrative Agent (regardless of whether a replacement Administrative Agent has been appointed pursuant to clauses (b) and (c) above). If no successor Administrative Agent has been appointed pursuant to clause (b) or (c) by the date on which the Administrative Agent's resignation becomes effective, the Required Lenders shall thereafter perform all the duties of the Administrative Agent hereunder and/or under any other Loan Document until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above.
- 9.10 <u>Co-Collateral Agent</u>; <u>Separate Collateral Agent</u>. At any time or from time to time, in order to comply with any applicable requirement of law, the Administrative Agent may appoint another bank or trust company or one or more other persons, either to act as co-agent or agents on behalf of the Administrative Agent and the other Lender Creditors with such power and authority as may be necessary for the effectual operation of the provisions hereof and which may be specified in the instrument of appointment (which may, in the discretion of the

Administrative Agent, include provisions for indemnification and similar protections of such co-agent or separate agent substantially the same as those contained herein). Notwithstanding anything to the contrary contained herein, every such agent, sub-collateral agent and every co-agent shall, to the extent permitted by law, be appointed and act and be such, subject to the condition that no power given hereby, or which is provided herein or in any other Loan Document to any such co-agent, sub-collateral agent or agent shall be exercised hereunder or thereunder by such co-agent or agent except jointly with, or with the consent in writing of, the Administrative Agent.

9.11 Other Agents. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, none of the Syndication Agents, Lead Arrangers or Bookrunners listed on the cover page hereof or otherwise a party hereto (collectively, the "Other Agents") shall have any powers, duties or responsibilities, nor shall the Other Agents have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against any Other Agent.

SECTION 10. Miscellaneous.

10.01 Payment of Expenses, etc. The Borrower hereby agrees to: (a) whether or not the transactions herein contemplated are consummated, pay all reasonable out-of-pocket costs and expenses of the Agents and their respective Affiliates and their partners, members, directors, officers, agents, employees and controlling persons (if any) (including the reasonable fees and disbursements of Baker Botts L.L.P., the Administrative Agent's special maritime counsel and, if reasonably necessary, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) in connection with the preparation, execution and delivery of this Agreement and the other Loan Documents and the documents and instruments referred to herein and therein and any amendment, waiver or consent relating hereto or thereto, of the Agents in connection with their syndication efforts with respect to this Agreement and of the Administrative Agent, and each of the Lenders in connection with the enforcement of this Agreement and the other Loan Documents and the documents and instruments referred to herein and therein or protection of their rights hereunder or thereunder or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or pursuant to any insolvency or bankruptcy proceedings; (b) pay and hold the Administrative Agent and each of the Lenders harmless from and against any and all present and future stamp, documentary, transfer, sales and use, value added, excise and other similar taxes with respect to the foregoing matters, the performance of any obligation under this Agreement or any other Loan Document or any payment thereunder, and save the Administrative Agent and each of the Lenders harmless from and against any and all liabilities with respect to or resulting from any delay or omission (other than to the extent attributable to the Administrative Agent or such Lender) to pay such taxes; and (c) indemnify the Agents and each Lender, and their respective Affiliates and their partners, members, directors, officers, agents, employees and controlling persons (if any) (each, an "Indemnified Party") from and hold each of them harmless against any and all liabilities, obligations (including removal or remedial actions), losses, damages, penalties, claims, actions, judgments, suits, costs, expenses and disbursements (including reasonable attorneys' and consultants' fees and disbursements) incurred by, imposed

on or assessed against any of them as a result of, or arising out of, or in any way related to, or by reason of, (i) any investigation, litigation or other proceeding (whether or not any Indemnified Party is a party thereto and whether or not such investigation, litigation or other proceeding is brought by or on behalf of any Loan Party or any third party) related to the entering into and/or performance of this Agreement or any other Loan Document or the proceeds of any Loans hereunder or the consummation of the Transaction or any other transactions contemplated herein or in any other Loan Document or the exercise of any of their rights or remedies provided herein or in the other Loan Documents, or (ii) the actual or alleged presence of Hazardous Materials in the air, surface water or groundwater or on the surface or subsurface of any Rig or Real Property at any time owned, leased or operated by the Borrower or any of its Restricted Subsidiaries, the generation, storage, transportation, handling, disposal or Release of Hazardous Materials by the Borrower or any of its Restricted Subsidiaries at any location, whether or not owned, leased or operated by the Borrower or any of its Restricted Subsidiaries, the noncompliance with Environmental Law (including applicable permits thereunder) applicable to any Rig or Real Property at any time owned, leased, operated or occupied by the Borrower or any of its Restricted Subsidiaries, or any Environmental Claim asserted against the Borrower or any of its Restricted Subsidiaries, or any Rig or Real Property at any time owned, leased, operated or occupied by the Borrower or any of its Restricted Subsidiaries, including, in each case, the reasonable fees and disbursements of counsel and other consultants incurred in connection with any such investigation, litigation, claim or other proceeding; provided that no such Indemnified Party will be indemnified for costs, expenses or liabilities (a) to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the bad faith gross negligence or willful misconduct of such Indemnified Party or (b) to the extent arising from a litigation, claim or proceeding solely among such parties (other than claims against the Agents solely in their capacities as such, and other than any investigation, litigation, claim or proceeding arising out of any act or omission on the part of the Lenders, the Agents, or their respective Affiliates). To the extent that the undertaking to indemnify, pay or hold harmless any Indemnified Party set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, the Borrower shall make the maximum contribution to the payment and satisfaction of each of the indemnified liabilities which is permissible under applicable law.

Without limiting the Borrower's reimbursement, indemnification and contribution obligations set forth in this Section 10.01, in no event will such Indemnified Party have any liability for any indirect, consequential, special or punitive damages in connection with or as a result of such Indemnified Party's activities related to this Agreement or the other Loan Documents. In no event will the Borrower have any liability to the Indemnified Parties for any indirect, consequential, special or punitive damages in connection with or as a result of the Borrower's activities relating to this Agreement or the other Loan Documents, other than reimbursement, indemnity and contribution obligations set forth in this Section 10.01 relating to indirect, consequential, special or punitive damages for which an Indemnified Party is liable or as set forth elsewhere in this Agreement.

10.02 <u>Right of Setoff</u>. In addition to any rights now or hereafter granted under applicable law or otherwise, and not by way of limitation of any such rights, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent and each Lender is hereby authorized at any time or from time to time, without presentment, demand,

protest or other notice of any kind to any Loan Party or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and apply any and all deposits (general or special) and any other Indebtedness at any time held or owing by the Administrative Agent or such Lender (including, without limitation, by branches and agencies of the Administrative Agent or such Lender wherever located) to or for the credit or the account of the Borrower or any of its Subsidiaries against and on account of the Obligations and liabilities of the Loan Parties to the Administrative Agent or such Lender under this Agreement or under any of the other Loan Documents, including, without limitation, all interests in Obligations purchased by such Lender pursuant to Section 10.06(b), and all other claims of any nature or description arising out of or connected with this Agreement or any other Loan Document, irrespective of whether or not the Administrative Agent or such Lender shall have made any demand hereunder and although said Obligations, liabilities or claims, or any of them, shall be contingent or unmatured.

10.03 Notices.

(a) <u>Notices Generally</u>. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows: if to the Borrower, at the address specified opposite its signature below or in the other relevant Loan Documents; if to any Lender, at its address specified to the Administrative Agent from time to time and if to the Administrative Agent, at the Notice Office; or, as to the Borrower or the Administrative Agent, at such other address as shall be designated by such party in a written notice to the other parties hereto and, as to each Lender, at such other address as shall be designated by such Lender in a written notice to the Borrower and the Administrative Agent.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications, to the extent provided in Section 10.03(b), shall be effective as provided in such Section.

(b) <u>Electronic Communications</u>. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, <u>provided</u> that the foregoing shall not apply to notices to any Lender pursuant to Section 2 if such Lender has notified the Administrative Agent that it is incapable of receiving notices under Section 2 by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or

communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its email address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; <u>provided</u> that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) <u>Change of Address, etc.</u> Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform.

- (i) Each Loan Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system (the "Platform").
- (ii) The Platform is provided "as is" and "as available." Neither the Administrative Agent nor any of its Affiliates warrants the adequacy of the Platform and each of the Administrative Agent and its Affiliates expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Administrative Agent or any of its Affiliates in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Affiliates have any liability to the Borrower or the other Loan Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower's, any Loan Party's or the Administrative Agent's transmission of communications through the Platform. "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Administrative Agent or any Lender by means of electronic communications pursuant to this Section, including through the Platform.

10.04 Benefit of Agreement; Assignments; Participations.

(a) This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; <u>provided</u>, <u>however</u>, that the Borrower may not assign or transfer any of its rights, obligations or interest hereunder or under any other Loan Document without the prior written consent of the Lenders, and <u>provided</u>, <u>further</u>, that, although any Lender may transfer, assign or grant participations in its rights hereunder (including any rights to yield protection, taxes and other deductions that such assigning Lender is entitled to pursuant to this Agreement), such Lender shall remain a "Lender" for all purposes hereunder (and may not transfer or assign all or any portion of its Loans

hereunder except as provided in Sections 2.11 and 10.04(b)) and the transferee, assignee or participant, as the case may be, shall not constitute a "Lender" hereunder and provided, further, that no Lender shall transfer or grant any participation under which the participant shall have rights to approve any amendment to or waiver of this Agreement or any other Loan Document except to the extent such amendment or waiver would (i) extend the final scheduled maturity of any Loan or Note in which such participant is participating, or reduce the rate or extend the time of payment of interest or Fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof (it being understood that any amendment or modification to the financial definitions in this Agreement or to Section 10.07(a) shall not constitute a reduction in the rate of interest or Fees payable hereunder) or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Default or of a mandatory prepayment in the Loans shall not constitute a change in the terms of such participation, and that an increase in any Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof), (ii) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement or (iii) release all or substantially all of the Collateral under all of the Security Documents (except as expressly provided in the Loan Documents) supporting the Loans hereunder in which such participant is participating. In the case of any such participation, the participant shall not have any rights under this Agreement or any of the other Loan Documents (the participant's rights against such Lender in respect of such participation to be those set forth in the agreement executed by such Lender in favor of the participant relating thereto), except as provided in this Section 10.04(a). The Borrower agrees that each participant shall be entitled to the benefits of Sections 2.08, 2.09 and 4.07 (subject to the requirements and limitations therein, including the requirements under Section 4.07(g) (it being understood that the documentation required under Section 4.07(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such participant (1) agrees to be subject to the provisions of Sections 2.10 and 2.11 as if it were an assignee under paragraph (b) of this Section; and (2) shall not be entitled to receive any greater payment under Sections 2.08 or 4.07 with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a change in law, rule, regulation, treaty, order, guideline, or directive (or in the interpretation or administration thereof) that occurs after the participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.11 with respect to any participant.

(b) Notwithstanding the foregoing, any Lender (or any Lender together with one or more other Lenders) may (i) assign all or a portion of its outstanding Obligations hereunder to (x) to the Borrower or any Subsidiary of the Borrower pursuant to Purchase Offers under Section 2.12 (y) (1) any Affiliate of such Lender or (2) to one or more other Lenders or any Affiliate of any such other Lender (provided that any fund that invests in loans and is managed or advised by the same investment advisor of another fund which is a Lender (or by an Affiliate of such investment advisor) shall be treated as an Affiliate of such other Lender for the purposes of this sub-clause (x)(i)(B)) or (z) in the case of any Lender that is a fund that invests in loans, any other fund that invests in loans and is managed or advised by the same investment advisor of any Lender or by an Affiliate of such investment advisor, or (ii) with the consent of the Borrower,

except for assignments to Affiliated Lenders or any Person that upon effectiveness of an assignment would be an Affiliated Lender (which consent (A) shall not be unreasonably withheld or delayed and shall not be required if any Default is then in existence and (B) shall be deemed to have been given to any such assignment unless it shall object thereto by written notice to the Administrative Agent within seven Business Days after having received notice thereof), assign all, or if less than all, a portion equal to an amount which shall not be less than \$1,000,000 in the aggregate and in integral multiples of \$1,000,000 thereof for the assigning Lender or assigning Lenders, of such outstanding Obligations hereunder to one or more Eligible Transferees (treating any fund that invests in bank loans and any other fund that invests in bank loans and is managed or advised by the same investment advisor of such fund or by an Affiliate of such investment advisor as a single Eligible Transferee), each of which assignees shall become a party to this Agreement as a Lender by execution of an Assignment and Assumption Agreement, provided that (I) at such time, Annex I shall be deemed modified to reflect the outstanding Loans of such new Lender and of the existing Lenders, (II) upon the surrender of the relevant Notes by the assigning Lender, new Notes will be issued, at the Borrower's expense, to such new Lender and to the assigning Lender upon the request of such new Lender or assigning Lender, such new Notes to be in conformity with the requirements of Section 2.04 (with appropriate modifications) to the extent needed to reflect the revised outstanding Loans, (III) the consent of the Administrative Agent shall be required in connection with any such assignment pursuant to clause (ii) above (which consent shall not, in any case, be unreasonably withheld or delayed), except that the consent of the Administrative Agent shall not be required for any assignment to an Affiliated Lender or a Person that upon effectiveness of an assignment would be an Affiliated Lender, except for the separate consent rights of the Administrative Agent pursuant to clause (e) of this Section 10.04, (IV) the Administrative Agent shall receive at the time of each such assignment, from the assigning or assignee Lender, the payment of a non-refundable assignment fee of \$3,500, which fee may be waived by the Administrative Agent in its discretion, and (V) no such transfer or assignment will be effective until recorded by the Administrative Agent on the Register pursuant to Section 10.15. To the extent of any assignment pursuant to this Section 10.04(b), the assigning Lender shall be relieved of its obligations hereunder with respect to its assigned outstanding Loans. To the extent that an assignment of all or any portion of a Lender's Commitments and related outstanding Obligations pursuant to this Section 10.04(b) (other than an assignment pursuant to Section 2.11) would, at the time of such assignment, result in increased costs under Sections 2.08 or 4.07 in excess of those being charged by the respective assigning Lender immediately prior to such assignment, then the Borrower shall not be obligated to pay such increased costs to the extent of such excess (although the Borrower, in accordance with and pursuant to the other provisions of this Agreement, shall be obligated to pay any other increased costs of the type described above resulting from changes after the date of the respective assignment).

(c) Notwithstanding anything to the contrary contained herein, other than acquisitions or repurchases of Loans by the Borrower or any Subsidiary of the Borrower pursuant to Purchase Offers under Section 2.13, neither the Borrower nor any Subsidiary of the Borrower may acquire by assignment, participation or otherwise any right to or interest in any of the Commitments or Loans and (and any such attempted acquisition shall be null and void). Notwithstanding anything to the contrary contained herein, other than as set forth in clause (e) below, no Affiliate of the Borrower may acquire by assignment, participation or otherwise any right to or interest in any of the Commitments or Loans and (and any such attempted acquisition shall be null and void).

- (d) Nothing in this Agreement shall prevent or prohibit any Lender from pledging its Loans and Notes hereunder to a Federal Reserve Bank or any central bank having jurisdiction over such Lender in support of borrowings made by such Lender from such Federal Reserve Bank or central bank and, with prior notification to the Administrative Agent (but without the consent of the Administrative Agent or the Borrower), any Lender which is a fund may pledge all or any portion of its Loans and Notes to its trustee or to a collateral agent providing credit or credit support to such Lender in support of its obligations to such trustee, such collateral agent or a holder of such obligations, as the case may be. No pledge pursuant to this clause (c) shall release the transferor Lender from any of its obligations hereunder.
 - (e) Any assignment to an Affiliated Lender shall be subject to the following limitations, in addition to those set forth above:
 - (i) Affiliated Lenders will not receive information provided solely to Lenders by the Administrative Agent or any Lender and will not be permitted to attend or participate in meetings attended solely by the Lenders and the Administrative Agent, other than the right to receive notices of prepayments and other administrative notices in respect of its Loans or Commitments required to be delivered to Lenders pursuant to Sections 2, 3 and 4;
 - (ii) each Affiliated Lender that (A) purchases any Loans pursuant to this Section 10.04 shall represent and warrant to the seller and (B) sells any Loan hereunder shall represent and warrant to the buyer, in each case, that it does not possess material non-public information with respect to the Borrower and its Subsidiaries or the securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information);
 - (iii) (A) the aggregate principal amount of Loans held at any one time by Affiliated Lenders shall not exceed 10% of the original principal amount of all Loans at such time outstanding (such percentage, the "Affiliated Lender Cap."), (B) unless otherwise agreed to in writing by the Required Lenders, regardless of whether consented to by the Administrative Agent or otherwise, no assignment which would result in Affiliated Lenders holding in excess of such Affiliated Lender Cap shall be effective with respect to such excess amount of the Loans (and such excess assignment shall be and be deemed null and void); provided that each of the parties hereto agrees and acknowledges that the Administrative Agent shall not be liable for any losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever incurred or suffered by any Person in connection with any compliance or non-compliance with this clause (e)(iii) or any purported assignment exceeding such 10% limitation or for any assignment being deemed null and void hereunder and (C) in the event of an acquisition pursuant to the last sentence of this clause (e) which would result in the Affiliated Lender Cap being exceeded, the most recent assignment to an Affiliated Lender involved in such acquisition shall be unwound and deemed null and void to the extent that the Affiliated Lender Cap would otherwise be exceeded; and

(iv) as a condition to each assignment pursuant to this clause (e), (A) the Administrative Agent shall have been provided a notice in the form of Exhibit N to this Agreement in connection with each assignment to an Affiliated Lender or a Person that upon effectiveness of such assignment would constitute an Affiliated Lender, and (without limitation of the provisions of clause (iii) above) shall be under no obligation to record such assignment in the Register until three (3) Business Days after receipt of such notice and (B) the Administrative Agent shall have consented to such assignment (which consent shall not be withheld unless the Administrative Agent reasonably believes that such assignment would violate clause (e)(iii) of this Section 10.04).

Each Affiliated Lender agrees to notify the Administrative Agent promptly (and in any event within 10 Business Days) if it acquires any Person who is also a Lender, and each Lender agrees to notify the Administrative Agent promptly (and in any event within 10 Business Days) if it becomes an Affiliated Lender. Such notice shall contain the type of information required and be delivered to the same addressee as set forth in Exhibit N.

- (f) Notwithstanding anything in Section 10.12 or the definition of "Required Lenders" to the contrary, for purposes of determining whether the Required Lenders have (i) consented (or not consented) to any amendment, modification, waiver, consent or other action with respect to any of the terms of any Loan Document or any departure by any Loan Party therefrom, or subject to Section 10.04(g), any plan of reorganization pursuant to Bankruptcy Law, (ii) otherwise acted on any matter related to any Loan Document, or (iii) directed or required the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, no Affiliated Lender shall have any right to consent (or not consent), otherwise act or direct or require the Administrative Agent or any Lender to take (or refrain from taking) any such action and:
 - (i) all Loans held by any Affiliated Lenders shall be deemed to be not outstanding for all purposes of calculating whether the Required Lenders have taken any actions; and
 - (ii) all Loans held by Affiliated Lenders shall be deemed to be not outstanding for all purposes of calculating whether all Lenders have taken any action unless the action in question affects such Affiliated Lender in a disproportionately adverse manner than its effect on other Lenders.
- (g) Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, each Affiliated Lender hereby agrees that, if a proceeding under any Debtor Relief Law shall be commenced by or against the Borrower or any other Loan Party at a time when such Lender is an Affiliated Lender, such Affiliated Lender irrevocably authorizes and empowers the Administrative Agent to vote on behalf of such Affiliated Lender with respect to the Loans held by such Affiliated Lender in any manner in the Administrative Agent's sole discretion, unless the Administrative Agent instructs such Affiliated Lender to vote, in which case such Affiliated Lender shall vote with respect to the Loans held by it as the Administrative

Agent directs; <u>provided</u> that such Affiliated Lender shall be entitled to vote in accordance with its sole discretion (and not in accordance with the direction of the Administrative Agent) in connection with any plan of reorganization to the extent any such plan of reorganization proposes to treat any Obligations held by such Affiliated Lender in a manner that is less favorable in any material respect to such Affiliated Lender than the proposed treatment of similar Obligations held by Lenders that are not Affiliates of the Borrower.

10.05 No Waiver; Remedies Cumulative . No failure or delay on the part of the Administrative Agent, the Pari Passu Collateral Agent or any Lender in exercising any right, power or privilege hereunder or under any other Loan Document and no course of dealing between the Borrower or any other Loan Party and the Administrative Agent, the Pari Passu Collateral Agent or any Lender shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or under any other Loan Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Loan Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which the Administrative Agent, the Pari Passu Collateral Agent or any Lender would otherwise have. No notice to or demand on any Loan Party in any case shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Administrative Agent, the Pari Passu Collateral Agent or any Lender to any other or further action in any circumstances without notice or demand.

10.06 Payments Pro Rata.

- (a) Except as otherwise provided in this Agreement, the Administrative Agent agrees that promptly after its receipt of each payment from or on behalf of the Borrower in respect of any Obligations or Class of Loans hereunder, the Administrative Agent shall distribute such payment to the Lenders entitled thereto (other than any Lender that has consented in writing to waive its <u>pro rata</u> share of any such payment) <u>pro rata</u> based upon their respective shares, if any, of the Obligations or Class of Loans with respect to which such payment was received.
- (b) Each of the Lenders agrees that, except as otherwise provided in this Agreement, if it should receive any amount hereunder (whether by voluntary payment, by realization upon security, by the exercise of the right of setoff or banker's Lien, by counterclaim or cross action, by the enforcement of any right under the Loan Documents, or otherwise), which is applicable to the payment of the principal of, or interest on, the Loans or Fees, of a sum which with respect to the related sum or sums received by other Lenders is in a greater proportion than the total of such Obligation then owed and due to such Lender bears to the total of such Obligation then owed and due to all of the Lenders immediately prior to such receipt, then such Lender receiving such excess payment shall purchase for cash without recourse or warranty from the other Lenders an interest in the Obligations of the respective Loan Party to such Lenders in such amount as shall result in a proportional participation by all the Lenders in such amount; provided that (i) if all or any portion of such excess amount is thereafter recovered from such Lenders, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest and (ii) any payment received in consideration for an assignment of participation permitted pursuant to Section 10.04 shall not be subject to this 10.06(b).

10.07 Calculations; Computations.

- (a) Subject to the provisions of Section 1.02(b), the financial statements to be furnished to the Lenders pursuant hereto shall be made and prepared in accordance with GAAP in the United States consistently applied throughout the periods involved (except as set forth in the notes thereto or as otherwise disclosed in writing by the Borrower to the Lenders to the extent, in each case, permitted by the terms of this Agreement).
- (b) All computations of interest and Fees hereunder shall be made on the basis of a year of 360 days (except for computations of interest with respect to Base Rate Loans when the Base Rate is determined by reference to clause (a) of the definition thereof, which shall be calculated on the basis of a year of 365 or 366 days) for the actual number of days (including the first day but excluding the last day) occurring in the period for which such interest or Fees are payable.

10.08 GOVERNING LAW; SUBMISSION TO JURISDICTION; VENUE; WAIVER OF JURY TRIAL.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL, EXCEPT AS OTHERWISE PROVIDED IN CERTAIN OF THE COLLATERAL RIG MORTGAGES AND OTHER SECURITY DOCUMENTS AS DETERMINED BY THE ADMINISTRATIVE AGENT, BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, EACH PARTY HEREUNDER HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HEREUNDER HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENTS BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER. EACH OF THE PARTIES HEREUNDER FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL. POSTAGE PREPAID. IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.03, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH OF THE PARTIES HEREUNDER HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER

LOAN DOCUMENT THAT SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT, ANY LENDER OR THE HOLDER OF ANY NOTE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY PARTY HEREUNDER IN ANY OTHER JURISDICTION.

- (b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- (d) The Borrower acknowledges that the majority of its officers are based in the Houston office located at the address specified opposite its signature below.

10.09 Counterparts.

- (a) <u>Counterparts; Integration</u>. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.
- (b) <u>Electronic Execution of Assignments</u>. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

- 10.10 <u>Effectiveness</u>. This Agreement shall become effective on the date on which it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto.
- 10.11 <u>Headings Descriptive</u>. The headings of the several sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

10.12 Amendment or Waiver; etc.

- (a) Neither this Agreement nor any other Loan Document nor any terms hereof or thereof may be changed, waived, discharged or terminated unless such change, waiver, discharge or termination is in writing signed by the respective Loan Parties party hereto or thereto and the Required Lenders, provided that:
 - (i) additional parties may be added to (and annexes may be modified to reflect such additions), and Subsidiaries of the Borrower may be released from, the Subsidiary Guaranty and the Security Documents in accordance with the provisions hereof and thereof without the consent of the other Loan Parties party thereto or the Required Lenders;
 - (ii) no such change, waiver, discharge or termination shall, without the consent of each Lender (with Obligations being directly and negatively affected in the case of the following clauses (1) and (5), to the extent (in the case of the following clause (5)) that any such Lender would be required to make a Loan in excess of its <u>pro rata</u> portion provided for in this Agreement or would receive a payment or prepayment of Loans or a commitment reduction that (in any case) is less than its <u>pro rata</u> portion provided for in this Agreement, in each case, as a result of any such amendment, modification or waiver referred to in the following clause (5)):
 - (1) extend the final scheduled maturity of any Loan or Note held by such Lender, or reduce the rate or extend the time of payment of interest thereon, or reduce the amount, or extend the time of payment, of any Fees thereon (except in connection with the waiver of applicability of any post-default increase in interest rates), or extend the timing of repayment of any such Loan, or reduce the principal amount of any such Loan thereof (it being understood that any amendment or modification to the financial definitions in this Agreement or to Section 10.07 (a) shall not constitute a reduction in the rate of interest or the amount of Fees for the purposes of this clause (i)), or increase the Commitment of any Lender,
 - (2) release any Collateral Rig Mortgage or all or substantially all of the Collateral (except as expressly provided in the Loan Documents) under the Security Documents or permit any sale, lease, transfer or other disposition of any Collateral Rig (it being

understood that a Drilling Contract shall not constitute any such sale, lease, transfer or other disposition) by the Borrower or any of its Restricted Subsidiaries to any Person other than a Loan Party or an entity to which such sales, lease, transfer or other disposition is being made that becomes a Loan Party upon such sale, lease, transfer or other disposition,

- (3) amend, modify or waive any provision of this Section 10.12 (except for technical amendments with respect to additional extensions of credit pursuant to this Agreement which afford the protections to such additional extensions of credit of the type provided to the Commitments on the Effective Date) or any other Section which expressly requires the consent of all Lenders or all Lenders directly and negatively affected thereby,
- (4) reduce the percentage specified in the definition of Required Lenders,
- (5) amend, modify or waive (x) Section 2.05 or (y) any other provision in this Agreement to the extent providing for payments or prepayments of Loans to be applied <u>pro rata</u> among the Lenders entitled to such payments or prepayments of Loans (it being understood that the waiver of any mandatory prepayment of Loans by the Required Lenders shall not constitute an amendment, modification or waiver for purposes of this clause (5)),
- (6) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement, or
- (7) substitute, replace or release any Subsidiary Guarantor from a Subsidiary Guaranty;
- (iii) no such change, waiver, discharge or termination shall change the provisions of any Loan Document in a manner that by its terms adversely affects the rights in respect of payments due to Lenders holding Loans of one Class differently from the rights of Lenders holding Loans of any other Class without the prior written consent of Lenders holding a majority in interest of the outstanding Loans and unused Commitments of each adversely affected Class; and
- (iv) no such change, waiver, discharge or termination shall (1) increase the Commitments of any Lender without the consent of such Lender or (2) without the consent of the Administrative Agent, amend, modify or waive any provision of Section 8.03 or any other provision as same relates to the rights or obligations of the Administrative Agent.
- (b) If, in connection with any proposed change, waiver, discharge or termination of any of the provisions of this Agreement as contemplated by clauses (1) through (7), inclusive, of Section 10.12(a), the consent of the Required Lenders is obtained but the consent of one or

more of such other Lenders whose consent is required is not obtained, then the Borrower shall have the right to replace each such non-consenting Lender or Lenders with one or more Replacement Lenders pursuant to Section 2.11 so long as at the time of such replacement, each such Replacement Lender consents to the proposed change, waiver, discharge or termination, <u>provided</u> that in any event the Borrower shall not have the right to replace a Lender or repay its Loans solely as a result of the exercise of such Lender's rights (and the withholding of any required consent by such Lender) pursuant to Section 10.12(a)(iii).

- 10.13 <u>Survival</u>. All indemnities set forth herein including, without limitation, in Sections 2.08, 2.09, 4.07, 9.06 and 10.01 shall survive the execution, delivery and termination of this Agreement and the Notes and the making and repayment of the Obligations.
- 10.14 <u>Domicile of Loans</u>. Each Lender may transfer and carry its Loans at, to or for the account of any office, Subsidiary or Affiliate of such Lender. Notwithstanding anything to the contrary contained herein, to the extent that a transfer of Loans pursuant to this Section 10.14 would, at the time of such transfer, result in increased costs under Section 2.08, 2.07 or 4.07 in excess of those being charged by the respective Lender immediately prior to such transfer, then the Borrower shall not be obligated to pay such increased costs to the extent of such excess (although the Borrower shall be obligated to pay any other increased costs of the type described above resulting from changes after the date of the respective transfer).
- 10.15 Register. The Borrower hereby designates the Administrative Agent to serve as its non-fiduciary agent, solely for purposes of this Section 10.15, to maintain a register (the "Register") on which it will record the Commitments of each of the Lenders, the Loans made by each of the Lenders, the principal amount (and stated interest) of such Loans, and each repayment in respect of the principal amount of the Loans of each Lender. Failure to make any such recordation, or any error in such recordation, shall not affect the Borrower's obligations in respect of such Loans. With respect to any Lender, the transfer of the Commitments of such Lender and the rights to the principal of, and interest on, any Loan made pursuant to such Commitments shall not be effective until such transfer is recorded on the Register maintained by the Administrative Agent with respect to ownership of such Commitments and Loans and prior to such recordation all amounts owing to the transferor with respect to such Commitments and Loans shall remain owing to the transferor. The registration of assignment or transfer of all or part of any Commitments and Loans shall be recorded by the Administrative Agent on the Register only upon the acceptance by the Administrative Agent of a properly executed and delivered Assignment and Assumption Agreement pursuant to Section 10.04(b). Coincident with the delivery of such an Assignment and Assumption Agreement to the Administrative Agent for acceptance and registration of assignment or transfer of all or part of a Loan, or as soon thereafter as practicable, the assigning or transferor Lender shall surrender the Note (if any) evidencing such Loan, and thereupon one or more new Notes in the same aggregate principal amount shall be issued to the assigning or transferor Lender and/or the new Lender at the request of any such Lender.

10.16 <u>Confidentiality</u>. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and

other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective party (or its managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (iii) any rating agency, or (iv) the CUSIP Service Bureau or any similar organization, (g) with the consent of the Borrower or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries, provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

10.17 Intercreditor Agreement. Each of the Loan Parties, the Administrative Agent and the Lenders (a) consents to and ratifies the execution by the Administrative Agent of the Intercreditor Agreement and any amendments or supplements expressly contemplated thereby, (b) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and (c) acknowledges that it has received a copy of the Intercreditor Agreement and that the exercise of certain of the Administrative Agent's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement. Each of the Lenders hereby directs the Administrative Agent to appoint the Pari Passu Collateral Agent as its mortgagee trustee to receive, hold, administer and enforce the Collateral Rig Mortgages covering the Collateral Rigs, as contemplated under Section 3.1(c) of the Intercreditor Agreement.

NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS AGREEMENT, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND THE INTERCREDITOR AGREEMENT, THE INTERCREDITOR AGREEMENT SHALL CONTROL.

10.18 Currency Conversion Shortfall.

- (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Loan Document in Dollars into another currency, the rate of exchange used shall be that at which, in accordance with normal, reasonable banking procedures, the Administrative Agent could purchase Dollars with such other currency in New York City on the Business Day preceding that on which final judgment is given.
- (b) The Obligations of the Loan Parties in respect of any sum due to the Administrative Agent or any Lender hereunder or under any other Loan Document shall, notwithstanding any judgment in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in such currency, the Administrative Agent may, in accordance with normal, reasonable banking procedures, purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due, in Dollars, the Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such Obligation was owing against such loss. If the amount of Dollars so purchased is greater than the sum originally due, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).

10.19 <u>Releases</u>. Subject to the Intercreditor Agreement, without further written consent or authorization from any Lender Creditor, the Administrative Agent or Pari Passu Collateral Agent, as applicable, may (a) execute any documents or instruments necessary in connection with an Asset Sale permitted by this Agreement, (b) release any Lien encumbering any item of Collateral that is the subject of such Asset Sale permitted by this Agreement or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.12) have otherwise consented or (c) release any Subsidiary Guarantor that is the subject of such Asset Sale permitted by this Agreement from its obligations under the Loan Documents or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.12) have otherwise consented.

* *

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Agreement as of the date first above written.

Address:

Pacific Drilling S.A. 37 rue d'anvers L-1130 Luxembourg Attention: John Boots

Email: j.boots@pacificdrilling.com

Facsimile: 352 278 58 140 Telephone: 352 278 58 139

with a copy to:

Pacific Drilling Services, Inc. 3050 Post Oak Blvd., Suite 1500

Houston, Texas 77056 Attention: Treasurer

Email: j.boots@pacificdrilling.com

Facsimile: (713) 583-5777 Telephone: (713) 334-6662

PACIFIC DRILLING S.A.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: Director

[Signature Page to Term Loan Agreement]

CITIBANK, N.A., as Administrative Agent and Lender

By: /s/ Robert Malleck

Name: Robert Malleck Title: Managing Director

[Signature Page to Term Loan Agreement]

Annex I

COMMITMENTS

<u>Lender</u>	Commitment
Citibank, N.A.	\$750,000,000

SCHEDULE B

SUBSIDIARY GUARANTORS

- Pacific Drillship S.àr.1
 Pacific Drilling Limited
 Pacific Drilling, Inc.
 Pacific Bora Ltd.

- Pacific Mistral Ltd.
- Pacific Santa Ana Ltd.
- Pacific Santa Ana S.àr.l
- Pacific International Drilling West Africa Limited
 Pacific Scirocco Ltd.

SCHEDULE C

PLEDGE AGREEMENTS, GUARANTIES AND SUBSIDIARY GUARANTORS

Section A

- 1. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Drilling Limited, as pledgor, and Citibank, N.A., as the Pari Passu Collateral Agent (re: pledge of shares of common stock of Pacific Mistral Ltd.)
- 2. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Drilling Limited, as pledgor, and Citibank, N.A., as the Pari Passu Collateral Agent (re: pledge of shares of common stock of Pacific Bora Ltd.)
- 3. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Drilling Limited and Pacific International Drilling West Africa Limited, as pledgors, and Citibank, N.A., as the Pari Passu Collateral Agent (re: pledge of shares of common stock of Pacific Scirroco Ltd.)
- 4. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Santa Ana Ltd., as pledgor, Citibank, N.A., as the Pari Passu Collateral Agent, and Pacific Santa Ana S.àr.l (re: pledge of share capital of Pacific Santa Ana S.àr.l)

Section B

- Pacific Drilling Limited
- Pacific Santa Ana Ltd.
- · Pacific International Drilling West Africa Limited

PLANS

PDSI 401K Plan

UCC-1 FILING OFFICES

- Recorder of Deeds, District of Columbia
 - o Pacific Drillship S.àr.l
 - o Pacific Drilling Limited
 - o Pacific Bora Ltd.
 - o Pacific Mistral Ltd.
 - o Pacific Santa Ana Ltd.
 - o Pacific Santa Ana S.àr.l
 - o Pacific International Drilling West Africa Limited
 - o Pacific Scirocco Ltd.

o

- Secretary of State, Texas
 - o Pacific Drillship S.àr.l
 - o Pacific Drilling Limited
 - o Pacific Bora Ltd.
 - o Pacific Mistral Ltd.
 - o Pacific Santa Ana Ltd.
 - o Pacific Santa Ana S.àr.1
 - o Pacific International Drilling West Africa Limited
 - o Pacific Scirocco Ltd.
- Secretary of State, Delaware
 - o Pacific Drilling, Inc.

CAPITAL STOCK OF SUBSIDIARY GUARANTORS

Legal Name	Owner	Percentage of Ownership	Jurisdiction of Organization
Pacific Drillship S.àr.l	Pacific Drilling	100%	Luxembourg
_	(Gibraltar) Limited		_
Pacific Drilling Limited	Pacific Drilling	100%	Liberia
•	(Gibraltar) Limited		
Pacific Drilling, Inc.	Pacific Drilling	100%	Delaware
O .	Manpower S.àr.1		
Pacific Bora Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Mistral	Pacific Drilling Limited	100%	Liberia
Pacific Santa Ana Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Santa Ana S.àr.1	Pacific Santa Ana Ltd.	100%	Luxembourg
Pacific	Pacific Drilling	90%	Nigeria
International Drilling	Operations Limited		
West Africa Limited	Nigerian 3 rd party	10%	
Pacific Scirocco Ltd.	Pacific Drilling Limited	90%	Liberia
	Pacific International	10%	
	Drilling West Africa		
	Limited		

SUBSIDIARIES OF THE BORROWER

Legal Name	Owner	Percentage of Ownership	Jurisdiction of Organization
Pacific Drilling (Gibraltar) Limited	Pacific Drilling S.A.	100%	Gibraltar
Pacific Drillship (Gibraltar) Limited	Pacific Drilling S.A.	100%	Gibraltar
Pacific Drilling Holding (Gibraltar) Limited	Pacific Drilling S.A.	100%	Gibraltar
Pacific Drilling Manpower S.àr.l	Pacific Drilling (Gibraltar) Limited	100%	Luxembourg
Pacific Drillship S.àr.l	Pacific Drilling (Gibraltar) Limited	100%	Luxembourg
Pacific Drilling Limited	Pacific Drilling (Gibraltar) Limited	100%	Liberia
Pacific Sharav S.àr.1	Pacific Drilling (Gibraltar) Limited	100%	Luxembourg
Pacific Drilling VII Limited	Pacific Drilling (Gibraltar) Limited	100%	BVI
Pacific Drilling Administrator Limited	Pacific Drilling (Gibraltar) Limited	100%	BVI
Pacific Drilling V Limited	Pacific Drillship (Gibraltar) Limited	100%	BVI
Pacific Drilling Manpower, Inc.	Pacific Drilling Holding (Gibraltar) Limited	100%	Delaware
Pacific Drilling VIII Limited	Pacific Drilling Holding (Gibraltar) Limited	100%	BVI
Pacific Drilling, Inc.	Pacific Drilling Manpower S.àr.1	100%	Delaware
Pacific Bora Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Mistral Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Santa Ana Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Drilling Operations Limited	Pacific Drilling Limited	100%	BVI
Pacific Drilling Operations, Inc.	Pacific Sharav S.àr.l	100%	Delaware
Pacific Santa Ana S.àr.1	Pacific Santa Ana Ltd.	100%	Luxembourg
Pacific International Drilling West Africa	Pacific Drilling Operations Limited	90%	Nigeria
Limited	Nigerian 3 rd party	10%	

Pacific Drilling South America 1 Limited	Pacific Drilling Operations Limited	100%	BVI
Pacific Drilling South America 2 Limited	Pacific Drilling South Pacific Drilling		BVI
Pacific Drilling N.V.	Pacific Drilling Operations Limited	100%	Neth Antilles
Pacific Drilling Services Inc.	Pacific Drilling Operations Limited	100%	Delaware
Pacific Deepwater Construction Limited	Pacific Drilling Operations Limited	100%	BVI
Pacific Drilling Services Pte. Ltd.	Pacific Drilling Operations Limited	100%	Singapore
Pacific Drilling International, LLC	Pacific Drilling Operations Limited	100%	Delaware
Pacific Drilling Manpower Ltd.	Pacific Drilling Operations Limited	100%	BVI
Pacific Scirocco Ltd.	Pacific Drilling Limited	90%	Liberia
	Pacific International Drilling West Africa Limited	10%	
Pacific Drilling do Brasil Investimentos Ltda	Pacific Drilling South America 1 Limited	99.9%	Brazil
	Pacific Drilling South America 2 Limited	.01%	
Pacific Drilling do Brasil Servicos de Perfuracao	Pacific Drilling South America 1 Limited	99.9%	Brazil
Ltda	Pacific Drilling South America 2 Limited	.01%	
Pacific Drilling	Pacific Drilling N.V.	99%	Netherlands
Netherlands Cooperatief	Pacific Drilling Operations Limited	1%	
Pacific Drilling International Ltd.	Pacific Drilling International, LLC	100%	BVI

LEGAL NAME, TYPE OF ORGANIZATION, JURISDICTION

	_		Jurisdiction of	
Name	Type	Domestic	Organization	Organization ID
Pacific Drilling S.A.	Societe anonyme	-	Luxembourg	R.C.S. Luxembourg
				B. 159658
Pacific Drillship S.àr.l	Societe a	-	Luxembourg	R.C.S. Luxembourg
	responsabilite limitee			B.162253
Pacific Drilling Limited	Liberian Nonresident	-	Liberia	C-108615
_	Domestic			
	Corporation			
Pacific Drilling, Inc.	Corporation	Yes	Delaware	4564073
Pacific Bora Ltd.	Liberian Nonresident	-	Liberia	C-109238
	Domestic			
	Corporation			
Pacific Mistral Ltd.	Liberian Nonresident	-	Liberia	C-110676
	Domestic			
	Corporation			
Pacific Santa Ana Ltd.	Liberian Nonresident	-	Liberia	C-110677
	Domestic			
	Corporation			
Pacific Santa Ana S.àr.1	Societe a	-	Luxembourg	R.C.S. Luxembourg
	responsabilite limitee		_	B.167700
Pacific International	Nigerian	-	Nigeria	RC 899457
Drilling West Africa	Corporation			
Limited	•			
Pacific Scirocco Ltd.	Liberian Nonresident	_	Liberia	C- 110671
	Domestic			
	Corporation			

COLLATERAL RIGS

Names	Registered Owner(s)	Official Number	Jurisdiction
Pacific Bora	Pacific Bora Ltd.	14745	Liberia
Pacific Mistral	Pacific Mistral Ltd.	14747	Liberia
Pacific Santa Ana	Pacific Santa Ana SARL	14748	Liberia
Pacific Scirocco	Pacific Scirocco Ltd.	14746	Liberia

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

Reference is made to the Term Loan Agreement described in Item 2 of Annex I annexed hereto (as such Term Loan Agreement may hereafter be amended, restated, modified or supplemented from time to time, the "<u>Term Loan Agreement</u>"). Unless defined in Annex I attached hereto, capitalized terms defined in the Term Loan Agreement are used herein as therein defined. (the "<u>Assignor</u>") and (the "<u>Assignee</u>") hereby agree as follows:

- 1. For an agreed consideration the Assignor hereby sells and assigns to the Assignee without recourse and without representation or warranty (other than as expressly provided herein), and the Assignee hereby purchases and assumes from the Assignor, that interest and amount of each applicable Class in and to all of the Assignor's rights and obligations under the Term Loan Agreement and any other documents or instruments delivered pursuant thereto as of the date hereof which represents the percentage interest specified in Item 4 of Annex I attached hereto (the "Assigned Share") of all of the Assignor's outstanding rights and obligations under the Term Loan Agreement and any other documents or instruments delivered pursuant hereto indicated in Item 4 of such Annex I.
- 2. The Assignor (i) represents and warrants that it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any liens or security interests and has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement; (ii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Term Loan Agreement or the other Loan Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Term Loan Agreement or the other Loan Documents or any other instrument or document furnished pursuant thereto; [and] (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or any of its Subsidiaries or the performance or observance by the Borrower or any of its Subsidiaries of any of their respective obligations under the Term Loan Agreement or the other Loan Documents or any other instrument or document furnished pursuant thereto[; and (iv) represents and warrants that it does not possess material non-public information with respect to the Borrower and its Subsidiaries or the securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information)] ¹.
- 3. The Assignee (i) confirms that it is [a Lender]/[an Affiliate of a Lender]/[an Eligible Transferee]/[an Affiliated Lender]; (ii) confirms that it has received a copy of the Term Loan Agreement and the other Loan Documents, together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption Agreement; (iii) represents and warrants that it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption

¹ Insert only if an Affiliated Lender is an Assignor under this Assignment and Assumption Agreement.

Agreement; (iv) agrees that it will, independently and without reliance upon the Administrative Agent, the Assignor or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Term Loan Agreement; (v) appoints and authorizes the Administrative Agent and the Pari Passu Collateral Agent to take such action as agent on its behalf and to exercise such powers under the Term Loan Agreement and the other Loan Documents as are delegated to the Administrative Agent and the Pari Passu Collateral Agent by the terms thereof, together with such powers as are reasonably incidental thereto; [and] (vi) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Term Loan Agreement are required to be performed by it as a Lender[.][;][; and] [(vii) attaches any documentation required to be delivered by it pursuant to the terms of the Term Loan Agreement, duly completed and executed by the Assignee] ² [; and (viii) represents and warrants that it does not possess material non-public information with respect to the Borrower and its Subsidiaries or the securities of any of them that has not been disclosed to the Lenders generally (other than Lenders who elect not to receive such information)] ³.

- 4. Following the execution of this Assignment and Assumption Agreement by the Assignor and the Assignee, an executed original hereof (together with all attachments) will be delivered to the Administrative Agent. The effective date of this Assignment and Assumption Agreement shall be the date of execution hereof by the Assignor, the Assignee and the consent hereof by the Borrower and the Administrative Agent, in each case, if required by Section 10.04(b) of the Term Loan Agreement, the recordation by the Administrative Agent of the assignment effected hereby in the Register and the receipt by the Administrative Agent of the applicable administrative fee referred to in Section 10.04(b) of the Term Loan Agreement, unless otherwise specified in Item 5 of Annex I attached hereto (the "Settlement Date").
- 5. Upon the delivery of a fully executed original hereof to the Administrative Agent, as of the Settlement Date, (i) the Assignee shall be a party to the Term Loan Agreement and, to the extent provided in this Assignment and Assumption Agreement, have the rights and obligations of a Lender thereunder and under the other Loan Documents and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption Agreement, relinquish its rights and be released from its obligations under the Term Loan Agreement and the other Loan Documents. For the avoidance of doubt, it is hereby understood and agreed that the Assigned Share of the Assignee shall be secured to the same extent as the other Lender Creditors under each of the Security Documents in effect from time to time.
- 6. It is agreed that upon the effectiveness hereof, the Administrative Agent shall make all payments in respect of an Assigned Share (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Settlement Date and to the Assignee for amounts which have accrued from and after the Settlement Date. Notwithstanding the foregoing, the Administrative Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Settlement Date to the Assignee. Upon the Settlement Date, the Assignee shall pay to the

² Insert if the Assignee is organized under the laws of a jurisdiction outside the United States.

³ Insert only if QPIL or an Affiliate of QPIL is the Assignee under this Assignment and Assumption Agreement.

Assignor an amount specified by the Assignor in writing which represents the Assigned Share of the principal amount of the respective Loans made by the Assignor pursuant to the Term Loan Agreement which are outstanding on the Settlement Date, net of any closing costs, and which are being assigned hereunder. The Assignor and the Assignee shall make all appropriate adjustments in payments under the Term Loan Agreement for periods prior to the Settlement Date directly between themselves.

7. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

8. THIS ASSIGNMENT AND ASSUMPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

* * *

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written, such execution also being made on Annex I attached hereto.

	[NAME OF ASSIGNOR],	
	as Assignor	
	Ç	
	By:	
	Name:	
	Title:	
	[NAME OF ASSIGNEE],	
	as Assignee	
	<u> </u>	
	By:	
	Name:	
	Title:	
[Acknowledged and Agreed:] ⁴		
CITIBANK, N.A., as Administrative Agent		
D.		
By:		
Name:		
Title:		
ra		
[Consented to:] ⁵		
D. CHICA DDW I DIG G A		
PACIFIC DRILLING S.A.,		
as Borrower		
D.		
By:		
Name:		
Title:		
Insert only if assignment is being made pursuant to Section 10.04(b)(ii) of the Term I oan Agreement	
insert only if assignment is semig made pursuant to section 10.04(0)(ii / Oi tiic i ciiii Louii / igiccillellt.	

Insert only if assignment is being made pursuant to Section 10.04(b)(ii) of the Term Loan Agreement.

Insert only if the consent of the Borrower is required by the terms of the Term Loan Agreement.

ANNEX FOR ASSIGNMENT AND ASSUMPTION AGREEMENT

- 1. The Borrower: Pacific Drilling S.A. (the "Borrower").
- 2. Name and Date of Term Loan Agreement:

Term Loan Agreement, dated as of June 3, 2013, among the Borrower, the lenders from time to time party thereto, and Citibank, N.A., as Administrative Agent (as amended, restated, modified and/or supplemented from time to time, the "<u>Term Loan Agreement</u>").

- 3. Date of Assignment and Assumption Agreement:
- 4. Amounts (as of date of item #3 above):

			Outstanding	
			Principal of	Class
			Loans	Assigned
	a. Aggregate Amount for all	Lenders	\$	
	b. Assigned Share		%	
	c. Amount of Assigned Shar	re	\$	
5.	Settlement Date:			
6.	Notice: ASSIGNEE:			
		Attention:		
		Telephone No.: Facsimile No.:		
7.	Payment Instructions: ASSIGNEE:			
	•			
		AD A No.		
		ABA No.: Account No.:		
		Attention:		

Reference:

8.	Affiliate	Status.
ο.	Allinan	Status.

a.	Assignor ⁶ :	Affiliated Lender 7
		Yes □ No □
b.	Assignee 8:	Affiliated Lender 9
		Yes □ No □

[If any Assignee hereunder indicates above that it is an Affiliated Lender (or will become an Affiliated Lender after giving effect to any such purported assignment), such Assignee shall have delivered to the Administrative Agent an Affiliate Assignment Notice in the form of Exhibit N to the Term Loan Agreement. If any Assignor or Assignee hereunder indicates above that it is or will become an Affiliated Lender, QPIL and such Affiliates of QPIL shall additionally set forth in this Section 8, the aggregate amount of all Loans held by Affiliated Lenders after giving effect to the assignment hereunder.]

⁶ List the Assignor.

⁷ Check the box in this column indicating whether or not the Assignor is, prior to giving effect to any assignment hereunder, an Affiliated Lender.

⁸ List the Assignee.

Oheck the box in this column indicating whether or not the Assignee is an Affiliated Lender or will, after giving effect to the assignment, become an Affiliated Lender.

FORM OF U.S. SUBSIDIARY GUARANTY

U.S. SUBSIDIARY GUARANTY, dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, this "Guaranty"), made by each of the undersigned Subsidiary Guarantors (as such term is defined in the Term Loan Agreement referred to below) (together with each other entity that becomes a guarantor hereunder pursuant to Section 27 hereof, collectively, the "Guarantors") in favor of CITIBANK, N.A., as Administrative Agent (together with any successor administrative agent, the "Administrative Agent"), for the benefit of the Lender Creditors (as such term is defined in the Term Loan Agreement referred to below). Except as otherwise defined herein, all capitalized terms used herein and defined in the Term Loan Agreement (as defined below) shall be used herein as therein defined.

WITNESSETH:

WHEREAS, Pacific Drilling S.A. (the "Borrower"), the lenders from time to time party thereto (the "Lenders") and the Administrative Agent have entered into a Term Loan Agreement, dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement"), providing for the making of Loans to the Borrower as contemplated therein;

WHEREAS, each Guarantor is a direct or indirect Subsidiary of the Borrower;

WHEREAS, it is a condition to the making of Loans to the Borrower under the Term Loan Agreement that each Guarantor shall have executed and delivered to the Administrative Agent this Guaranty; and

WHEREAS, each Guarantor will obtain benefits from the incurrence of Loans by the Borrower under the Term Loan Agreement and, accordingly, desires to execute this Guaranty in order to satisfy the conditions described in the preceding paragraph and to induce the Lenders to make Loans to the Borrower.

NOW, THEREFORE, in consideration of the benefits accruing to each Guarantor, the receipt and sufficiency of which are hereby acknowledged, each Guarantor hereby makes the following representations and warranties to the Administrative Agent for the benefit of the Lender Creditors and hereby covenants and agrees with the Administrative Agent for the benefit of the Lender Creditors as follows:

1. Each Guarantor, jointly and severally, irrevocably, absolutely and unconditionally guarantees as primary obligor and not merely as surety, the Obligations (all such obligations, liabilities, sums and expenses being herein collectively called the "Guaranteed Obligations").

Each Guarantor understands, agrees and confirms that the Lender Creditors may enforce this Guaranty up to the full amount of the Guaranteed Obligations against such Guarantor without

proceeding against the Borrower, any other Guarantor and/or any other Subsidiary of the Borrower against any security for the Guaranteed Obligations, or under any other guaranty covering all or a portion of the Guaranteed Obligations.

- 2. Additionally, each Guarantor, jointly and severally, unconditionally, absolutely and irrevocably, guarantees the payment by the Borrower of any and all Guaranteed Obligations whether or not due or payable upon the occurrence in respect of the Borrower of any of the events specified in Section 8.08 of the Term Loan Agreement, and unconditionally and irrevocably, jointly and severally, promises to pay such Guaranteed Obligations to the Lender Creditors, or order, on demand. This Guaranty shall constitute a guaranty of payment and not of collection.
- 3. The liability of each Guarantor hereunder is absolute, joint and several, and unconditional and is exclusive and independent of any security for or other guaranty of the Guaranteed Obligations or other indebtedness of the Borrower whether executed by such Guarantor, any other Guarantor, any other guarantor or by any other party, and the liability of each Guarantor hereunder shall not be affected or impaired by any circumstance or occurrence whatsoever, including, without limitation: (a) any direction as to application of payment by the Borrower or by any other party, (b) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Guaranteed Obligations, (c) any payment on or in reduction of any such other guaranty or undertaking, (d) any dissolution, termination or increase, decrease or change in personnel by the Borrower, (e) any payment made to any Lender Creditor on the indebtedness which any Lender Creditor repays to the Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each Guarantor waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding, (f) any action or inaction by the Lender Creditors as contemplated in Section 6 hereof or (g) any invalidity, irregularity or unenforceability of all or any part of the Guaranteed Obligations or of any security therefor.
- 4. The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor, any other guarantor or the Borrower, and a separate action or actions may be brought and prosecuted against each Guarantor whether or not action is brought against any other Guarantor, any other guarantor or the Borrower and whether or not any other Guarantor, any other guarantor or the Borrower be joined in any such action or actions. Each Guarantor waives, to the fullest extent permitted by law, the benefits of any statute of limitations affecting its liability hereunder or the enforcement thereof. Any payment by the Borrower or other circumstance which operates to toll any statute of limitations as to the Borrower shall operate to toll the statute of limitations as to each Guarantor.
- 5. Each Guarantor hereby waives notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives promptness, diligence, presentment, demand of payment, protest, notice of dishonor or nonpayment of any such liabilities, suit or taking of other action by the Administrative Agent or any other Lender Creditor against, and any other notice to, any party liable thereon (including, without limitation, such Guarantor, any other Guarantor or the Borrower).

- 6. Any Lender Creditor may at any time and from time to time without the consent of, or notice to, any Guarantor, without incurring responsibility to such Guarantor, without impairing or releasing the obligations of such Guarantor hereunder, upon or without any terms or conditions and in whole or in part:
 - (a) change the manner, place or terms of payment of, and/or change, increase or extend the time of payment of, renew, accelerate or alter, any of the Guaranteed Obligations (including, without limitation, any increase or decrease in the rate of interest thereon or the principal amount thereof), any security therefor, or any liability incurred directly or indirectly in respect thereof, and the guaranty herein made shall apply to the Guaranteed Obligations as so changed, extended, renewed or altered;
 - (b) take and hold security for the payment of the Guaranteed Obligations and sell, exchange, release, surrender, impair, realize upon or otherwise deal with in any manner and in any order any property or other collateral by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Guaranteed Obligations or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any offset there against;
 - (c) exercise or refrain from exercising any rights against the Borrower, any Guarantor or any other guarantor, any other Subsidiary of the Borrower or otherwise act or refrain from acting;
 - (d) release or substitute any one or more endorsers, Guarantors, other guarantors or the Borrower;
 - (e) settle or compromise any of the Guaranteed Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of the Borrower to creditors of the Borrower other than the Lender Creditors;
 - (f) apply any sums by whomsoever paid or howsoever realized to any liability or liabilities of the Borrower to the Lender Creditors regardless of what liabilities of the Borrower remain unpaid;
 - (g) consent to or waive any breach of, or any act, omission or default under, any of the Loan Documents or any of the instruments or agreements referred to therein, or otherwise amend, modify or supplement any of the Loan Documents or any of such other instruments or agreements;
 - (h) act or fail to act in any manner which may deprive such Guarantor of its right to subrogation against the Borrower to recover full indemnity for any payments made pursuant to this Guaranty; and/or
 - (i) take any other action which would, under otherwise applicable principles of common law, give rise to a legal or equitable discharge of such Guarantor from its liabilities under this Guaranty.

No invalidity, illegality, irregularity or unenforceability of all or any part of the Guaranteed Obligations, the Loan Documents or any other agreement or instrument relating to the Guaranteed Obligations or of any security or guarantee therefor shall affect, impair or be a defense to this Guaranty, and this Guaranty shall be absolute and unconditional notwithstanding the occurrence of any event or the existence of any other circumstances which might constitute a legal or equitable discharge of a surety or guarantor except payment in full of the Guaranteed Obligations.

- 7. This Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. No failure or delay on the part of any Lender Creditor in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly specified are cumulative and not exclusive of any rights or remedies which any Lender Creditor would otherwise have. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Lender Creditor to any other or further action in any circumstances without notice or demand. It is not necessary for any Lender Creditor to inquire into the capacity or powers of the Borrower or any of the officers, directors, partners or agents acting or purporting to act on its behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.
- 8. Any indebtedness of the Borrower now or hereafter held by any Guarantor is hereby subordinated to the indebtedness of the Borrower to the Lender Creditors, and such indebtedness of the Borrower to any Guarantor, if the Administrative Agent or the Pari Passu Collateral Agent, as applicable, after the occurrence and during the continuance of an Event of Default, so requests, shall be collected, enforced and received by such Guarantor as trustee for the Lender Creditors and be paid over to the Lender Creditors on account of the indebtedness of the Borrower to the Lender Creditors, but without affecting or impairing in any manner the liability of such Guarantor under the other provisions of this Guaranty. Prior to the transfer by any Guarantor of any note or negotiable instrument evidencing any indebtedness of the Borrower to such Guarantor, such Guarantor shall mark such note or negotiable instrument with a legend that the same is subject to this subordination. Without limiting the generality of the foregoing, each Guarantor hereby agrees with the Lender Creditors that it will not exercise any right of subrogation which it may at any time otherwise have as a result of this Guaranty (whether contractual, under Section 509 of the Bankruptcy Code or otherwise) until all Guaranteed Obligations have been irrevocably paid in full in cash.
- 9. (a) Each Guarantor waives any right (except as shall be required by applicable law and cannot be waived) to require the Lender Creditors to: (i) proceed against the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party; (ii) proceed against or exhaust any security held from the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party; or (iii) pursue any other remedy in the Lender Creditors' power whatsoever. Each Guarantor waives any defense based on or arising out of any defense of the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party other than payment in full in cash of the Guaranteed

Obligations, including, without limitation, any defense based on or arising out of the disability of the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party, or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower other than payment in full of the Guaranteed Obligations in cash. The Lender Creditors may, at their election, foreclose on any security held by the Administrative Agent, the other Lender Creditors or the Pari Passu Collateral Agent by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, or exercise any other right or remedy the Lender Creditors may have against the Borrower or any other party, or any security, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Guaranteed Obligations have been paid in full in cash. Each Guarantor waives any defense arising out of any such election by the Lender Creditors, even though such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of such Guarantor against the Borrower or any other party or any security.

- (b) Each Guarantor waives all presentments, demands for performance, protests and notices, including, without limitation, notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Guaranty, and notices of the existence, creation or incurring of new or additional indebtedness. Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks which such Guarantor assumes and incurs hereunder, and agrees that the Lender Creditors shall have no duty to advise any Guarantor of information known to them regarding such circumstances or risks.
- 10. By their acceptance of the benefits of this Guaranty, the Lender Creditors agree that this Guaranty may be enforced only by the action of the Administrative Agent or the Pari Passu Collateral Agent, as applicable, in each case acting upon the instructions of the Required Lenders and that no other Lender Creditors shall have any right individually to seek to enforce or to enforce this Guaranty or to realize upon the security to be granted by the Security Documents, it being understood and agreed that such rights and remedies may be exercised by the Administrative Agent or the Pari Passu Collateral Agent, as applicable, for the benefit of the Lender Creditors upon the terms of this Guaranty and the Security Documents. By their acceptance of the benefits of this Guaranty, the Lender Creditors further agree that this Guaranty may not be enforced against any director, officer, employee, partner, member or stockholder of any Guarantor (except to the extent such partner, member or stockholder is also a Guarantor hereunder).
- 11. In order to induce the Lenders to make Loans to the Borrower pursuant to the Term Loan Agreement, each Guarantor represents, warrants and covenants that:
 - (a) Such Guarantor (i) is a duly organized or incorporated and validly existing corporation, limited liability company, limited partnership, company or other business entity, as the case may be, in good standing (or the equivalent) under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or other applicable power and authority to own its property and assets and to transact the business in which it is engaged and presently proposes to engage and (iii) is duly qualified and is authorized

to do business and is in good standing (or the equivalent) in each jurisdiction where the ownership, leasing or operation of its property or the conduct of its business requires such qualifications, except for failures to be so qualified which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Except to the extent permitted by the Term Loan Agreement, such Guarantor has not taken any corporate or other applicable action and no other steps have been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened in writing against such Guarantor for winding up, or dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of such Guarantor or any or all of its assets or revenues and such Guarantor has not sought any other relief under any applicable insolvency or bankruptcy law.

- (b) Such Guarantor has the corporate or other applicable power and authority to execute, deliver and perform the terms and provisions of this Guaranty and each other Loan Document to which it is a party and has taken all necessary corporate or other applicable action to authorize the execution, delivery and performance by it of this Guaranty and each such other Loan Document. Such Guarantor has duly executed and delivered this Guaranty and each other Loan Document to which it is a party, and this Guaranty and each such other Loan Document constitutes the legal, valid and binding obligation of such Guarantor enforceable in accordance with its terms, except to the extent that the enforceability hereof or thereof may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).
- (c) Neither the execution, delivery or performance by such Guarantor of this Guaranty or any other Loan Document to which it is a party, nor compliance by it with the terms and provisions hereof and thereof, (i) will contravene in any material respect any applicable provision of any law, statute, rule or regulation or any order, writ, injunction or decree of any court or governmental instrumentality, (ii) will conflict in any material respect with or result in any material breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien (except pursuant to the Security Documents) upon any of the properties or assets of such Guarantor pursuant to the terms of any indenture, mortgage, deed of trust, credit agreement or loan agreement, or any other material agreement, contract or instrument, in each case to which such Guarantor is a party or by which it or any of its property or assets is bound or to which it may be subject or (iii) will violate any provision of the certificate or articles of incorporation or by-laws (or equivalent organizational documents) of such Guarantor.
- (d) No order, consent, approval, license, authorization or validation of, or filing, recording or registration with (except as have been obtained or made prior to the date hereof and which remain in full force and effect), or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorize, or is required in connection with, (i) the execution, delivery and performance of this Guaranty by such Guarantor or any other Loan Document to which such Guarantor is a party or (ii) the legality, validity, binding effect or enforceability of this Guaranty or any other Loan Document to which such Guarantor is a party.
- (e) There are no actions, suits or proceedings pending or, to such Guarantor's knowledge, threatened (i) with respect to this Guaranty or any other Loan Document to which such Guarantor is a party or (ii) with respect to such Guarantor or any of its Subsidiaries that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

- 12. Each Guarantor covenants and agrees that on and after the Effective Date and until the termination of all Commitments and until such time as no Note remains outstanding and all Guaranteed Obligations have been paid in full, such Guarantor will comply, and will cause each of its Subsidiaries that is a Restricted Subsidiary to comply, with all of the applicable provisions, covenants and agreements contained in Section 7 of the Term Loan Agreement, and will take, or will refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that it is not in violation of any provision, covenant or agreement contained in Section 7 of the Term Loan Agreement, and so that no Default or Event of Default is caused by the actions of such Guarantor or any of its Subsidiaries.
- 13. The Guarantors hereby jointly and severally agree to pay all reasonable out-of-pocket costs and expenses of the Pari Passu Collateral Agent, Administrative Agent and each Lender Creditor (including, without limitation, the reasonable fees and disbursements of a single counsel to such parties plus one special maritime counsel to such parties, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) and as may otherwise be incurred for the protection of such Lender Creditors' rights hereunder in connection with the enforcement of this Guaranty and of the Pari Passu Collateral Agent and the Administrative Agent in connection with any amendment, waiver or consent relating hereto.
- 14. This Guaranty shall be binding upon each Guarantor and its successors and assigns and shall inure to the benefit of the Lender Creditors and their successors and assigns.
- 15. Neither this Guaranty nor any provision hereof may be amended, supplemented, changed, waived, discharged or terminated except with the written consent of each Guarantor directly affected thereby and with the written consent of the Required Lenders (or, to the extent required by Section 10.12 of the Term Loan Agreement, with the written consent of each Lender) at all times prior to the time on which all Guaranteed Obligations have been paid in full.
- 16. Each Guarantor acknowledges that an executed (or conformed) copy of each of the Loan Documents has been made available to a senior officer, director or manager or a senior officer, director or manager of a partner of such Guarantor and such individual is familiar with the contents thereof.
- 17. In addition to any rights now or hereafter granted under applicable law or otherwise and not by way of limitation of any such rights, upon the occurrence and during the

continuance of an Event of Default, each Lender Creditor is hereby authorized, at any time or from time to time, without presentment, demand, protest or other notice to any Guarantor or to any other Person, any such notice being expressly waived, to set off and to appropriate and apply any and all deposits (general or special) and any other indebtedness at any time held or owing by such Lender Creditor to or for the credit or the account of such Guarantor, against and on account of the obligations and liabilities of such Guarantor to such Lender Creditor under this Guaranty, irrespective of whether or not such Lender Creditor shall have made any demand hereunder and although said obligations, liabilities, deposits or claims, or any of them, shall be contingent or unmatured.

- 18. (a) All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party, (i) in the case of any Lender Creditor, as provided in the Term Loan Agreement, and (ii) in the case of any Guarantor, to such Guarantor at c/o Pacific Drilling Services, Inc., 3050 Post Oak Blvd., Suite 1500, Houston, Texas 77056, Attention: John Boots, Facsimile No. (713) 583-5777; or in any case at such other address as any of the Persons listed above may hereafter notify the others in writing.
- (b) Any Lender Creditor or Guarantor may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.
- 19. If any claim is ever made upon any Lender Creditor for repayment or recovery of any amount or amounts received in payment or on account of any of the Guaranteed Obligations and any of the aforesaid payees repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including, without limitation, the Borrower) then and in such event each Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon such Guarantor, notwithstanding any revocation hereof or other instrument evidencing any liability of the Borrower and such Guarantor shall be and remain liable to the aforesaid payees hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by any such payee.

 $20.\,$ (a) THIS GUARANTY AND THE RIGHTS AND OBLIGATIONS OF THE LENDER CREDITORS AND OF THE UNDERSIGNED HEREUNDER SHALL BE

CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT TO WHICH ANY GUARANTOR IS A PARTY SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS GUARANTY OR ANY OTHER LOAN DOCUMENT TO WHICH ANY GUARANTOR IS A PARTY, EACH GUARANTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH GUARANTOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GUARANTOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS GUARANTY OR ANY OTHER LOAN DOCUMENT TO WHICH SUCH GUARANTOR IS A PARTY BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GUARANTOR. EACH GUARANTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 18 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY, EACH GUARANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER LOAN DOCUMENT TO WHICH SUCH GUARANTOR IS A PARTY THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE LENDER CREDITORS TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY GUARANTOR IN ANY OTHER JURISDICTION.

(b) EACH GUARANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS GUARANTY OR ANY OTHER LOAN DOCUMENT TO WHICH SUCH GUARANTOR IS A PARTY BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY, THE OTHER LOAN DOCUMENTS TO WHICH SUCH PARTY IS A PARTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

- 21. (a) In the event that all of the Equity Interests of one or more Guarantors are the subject of an Asset Sale in compliance with the requirements of Section 7.18 of the Term Loan Agreement (or with respect to which the Required Lenders (or such other Lenders as may be required to give such consent under Section 10.12 of the Term Loan Agreement) have otherwise consented) and the proceeds of such Asset Sale are applied in accordance with the provisions of the Term Loan Agreement, to the extent applicable, such Guarantor shall, upon consummation of such Asset Sale (except to the extent that such Asset Sale is to the Borrower or another Restricted Subsidiary thereof), be released from this Guaranty automatically and without further action and this Guaranty shall, as to each such Guarantor or Guarantors, terminate, and have no further force or effect.
- (b) Upon termination of all Commitments and payment in full of all Obligations (other than contingent indemnification obligations), this Guaranty shall be automatically terminated, discharged and released.
- 22. At any time a payment in respect of the Guaranteed Obligations is made under this Guaranty, the right of contribution of each Guarantor against each other Guarantor shall be determined as provided in the immediately following sentence, with the right of contribution of each Guarantor to be revised and restated as of each date on which a payment (a "Relevant Payment") is made on the Guaranteed Obligations under this Guaranty. At any time that a Relevant Payment is made by a Guarantor that results in the aggregate payments made by such Guarantor in respect of the Guaranteed Obligations to and including the date of the Relevant Payment exceeding such Guarantor's Contribution Percentage (as defined below) of the aggregate payments made by all Guarantors in respect of the Guaranteed Obligations to and including the date of the Relevant Payment (such excess, the "Aggregate Excess Amount"), each such Guarantor shall have a right of contribution against each other Guarantor who has made payments in respect of the Guaranteed Obligations to and including the date of the Relevant Payment in an aggregate amount less than such other Guarantor's Contribution Percentage of the aggregate payments made to and including the date of the Relevant Payment by all Guarantors in respect of the Guaranteed Obligations (the aggregate amount of such deficit, the "Aggregate Deficit Amount") in an amount equal to (x) a fraction the numerator of which is the Aggregate Excess Amount of such Guarantor and the denominator of which is the Aggregate Excess Amount of all Guarantors multiplied by (y) the Aggregate Deficit Amount of such other Guarantor. A Guarantor's right of contribution pursuant to the preceding sentences shall arise at the time of each computation, subject to adjustment to the time of each computation; provided that no Guarantor may take any action to enforce such right until the Guaranteed Obligations have been irrevocably paid in full in cash, it being expressly recognized and agreed by all parties hereto that any Guarantor's right of contribution arising pursuant to this Section 22 against any other Guarantor shall be expressly junior and subordinate to such other Guarantor's obligations and liabilities in respect of the Guaranteed Obligations and any other obligations owing under this Guaranty. As used in this Section 22: (i) each Guarantor's " Contribution Percentage "shall mean the percentage obtained by dividing (x) the Adjusted Net Worth (as defined below) of such Guarantor by (y) the aggregate Adjusted Net Worth of all Guarantors; (ii) the "Adjusted Net Worth" of each Guarantor shall mean the greater of (x) the Net Worth (as defined below) of such Guarantor and (y) zero; and (iii) the "Net Worth" of each Guarantor shall mean the amount by which the fair saleable value of such Guarantor's assets on the date of any Relevant Payment exceeds its existing debts and other liabilities (including contingent liabilities, but without giving

effect to any Guaranteed Obligations arising under this Guaranty) on such date. Notwithstanding anything to the contrary contained above, any Guarantor that is released from this Guaranty pursuant to Section 21 hereof shall thereafter have no contribution obligations, or rights, pursuant to this Section 22, and at the time of any such release, if the released Guarantor had an Aggregate Excess Amount or an Aggregate Deficit Amount, same shall be deemed reduced to \$0, and the contribution rights and obligations of the remaining Guarantors shall be recalculated on the respective date of release (as otherwise provided above) based on the payments made hereunder by the remaining Guarantors. All parties hereto recognize and agree that, except for any right of contribution arising pursuant to this Section 22, each Guarantor who makes any payment in respect of the Guaranteed Obligations shall have no right of contribution or subrogation against any other Guarantor in respect of such payment until all of the Guaranteed Obligations have been irrevocably paid in full in cash. Each of the Guarantors recognizes and acknowledges that the rights to contribution arising hereunder shall constitute an asset in favor of the party entitled to such contribution. In this connection, each Guarantor has the right to waive its contribution right against any Guarantor to the extent that after giving effect to such waiver such Guarantor would remain solvent, in the determination of the Required Lenders.

- 23. (a) Each Guarantor and each Lender Creditor (by its acceptance of the benefits of this Guaranty) hereby confirms that it is its intention that this Guaranty not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar Federal or state law. To effectuate the foregoing intention, each Guarantor and each Lender Creditor (by its acceptance of the benefits of this Guaranty) hereby irrevocably agrees that the Guaranteed Obligations guaranteed by such Guarantor shall be limited to such amount as will, after giving effect to such maximum amount and all other (contingent or otherwise) liabilities of such Guarantor that are relevant under such laws and after giving effect to any rights to contribution pursuant to any agreement providing for an equitable contribution among such Guarantor and the other Guarantors, result in the Guaranteed Obligations of such Guarantor in respect of such maximum amount not constituting a fraudulent transfer or conveyance.
- (b) Notwithstanding anything to the contrary contained herein, the Guaranteed Obligations guaranteed by each Guarantor incorporated in Luxembourg (each, a "Luxembourg Guarantor", and each such guarantee, a "Luxembourg Guarantee") shall at all times be limited to an aggregate amount not exceeding the greater of (i) 90% of the Luxembourg Guarantor's own funds ("capitaux propres", as referred to in article 34 of the Luxembourg law of 19 December 2002 on the commercial register and annual accounts, as amended by the law of 10 December 2010 on the introduction of international accounting standards for undertakings), as reflected in its last annual accounts duly approved and available on the date of enforcement of the Luxembourg Guarantee under the Guaranty; or (ii) 90% of the Luxembourg Guarantor's own funds ("capitaux propres", as referred to in article 34 of the Luxembourg law of 19 December 2002 on the commercial register and annual accounts, as amended by the law of 10 December 2010 on the introduction of international accounting standards for undertakings), as reflected in its last annual accounts duly approved and available as of the date hereof, save to the extent that the Luxembourg Guarantee relates to the obligations of a direct or indirect subsidiary of the relevant Luxembourg Guarantor.

- 24. This Guaranty may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.
- 25. All payments made by any Guarantor hereunder will be made without setoff, counterclaim or other defense and on the same basis as payments are made by the Borrower under Sections 4.06 and 4.07 of the Term Loan Agreement.
- 26. (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder in Dollars into another currency, each Guarantor agrees that the rate of exchange used shall be that at which, in accordance with normal, reasonable banking procedures, the Administrative Agent could purchase Dollars with such other currency in New York City on the Business Day preceding that on which final judgment is given.
- (b) The obligations of each Guarantor in respect of any sum due to the Lender Creditors hereunder shall, notwithstanding any judgment in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in such currency, the Administrative Agent may, in accordance with normal, reasonable banking procedures, purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due, in Dollars, each Guarantor agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of Dollars so purchased is greater than the sum originally due, the Administrative Agent agrees to return the amount of any excess to such Guarantor (or to any other Person who may be entitled thereto under applicable law).
- 27. It is understood and agreed that any Subsidiary of the Borrower that is required to execute a counterpart of this Guaranty after the date hereof pursuant to Section 7.07(c) of the Term Loan Agreement shall become a Guarantor hereunder upon execution and delivery to the Administrative Agent of a supplement to this Guaranty substantially in the form attached hereto as Exhibit A.

* * *

IN WITNESS WHEREOF, each Guarantor has caused this Guaranty to be executed and delivered as of the date first above written.

[SIGNATURE BLOCK FOR EACH SUBSIDIAR GUARANTOR]	Y
D	

By:			
Name: Title:			
Title.			

Signature Page to Pacific Drilling U.S. Subsidiary Guaranty (Term Loan Agreement)

Exhibit	E	
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Accepted and Agreed to:	
CITIBANK, N.A., as Administrative Agent	
Ву:	
Name:	
Title:	

Signature Page to Pacific Drilling U.S. Subsidiary Guaranty (Term Loan Agreement)

EXHIBIT A

[FORM OF]

GUARANTY SUPPLEMENT

This GUARANTY SUPPLEMENT (this "Guaranty Supplement"), dated as of [], 20[], is made by [], a [] (the "Additional Guarantor"), in favor of CITIBANK, N.A., as Administrative Agent (together with any successor administrative agent, the "Administrative Agent"), for the benefit of the Lender Creditors (as such term is defined in the Term Loan Agreement referred to below).

WITNESSETH:

WHEREAS, Pacific Drilling S.A. (the "Borrower"), the lenders from time to time party thereto and the Administrative Agent have entered into a Term Loan Agreement, dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement"), providing for the making of Loans to the Borrower as contemplated therein;

WHEREAS, in connection with the Term Loan Agreement, the Subsidiary Guarantors have entered into a U.S. Subsidiary Guaranty dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, including as supplemented by this Guaranty Supplement, the "Guaranty"), in favor of the Administrative Agent for the benefit of the Lender Creditors;

WHEREAS, Section 7.07(c) of the Term Loan Agreement requires the Additional Guarantor to execute and deliver this Guaranty Supplement to the Administrative Agent, and the Additional Guarantor has agreed to execute and deliver this Guaranty Supplement to the Administrative Agent;

NOW, THEREFORE, IT IS AGREED:

SECTION 1. <u>Defined Terms</u>. Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Term Loan Agreement or the Guaranty.

SECTION 2. <u>Guaranty</u>. The Additional Guarantor hereby irrevocably, absolutely and unconditionally, jointly and severally with the other Guarantors, guarantees as primary obligor and not merely as surety, the Guaranteed Obligations (as defined in Section 1 of the Guaranty). The Additional Guarantor understands, agrees and confirms that the Lender Creditors may enforce the Guaranty up to the full amount of the Guaranteed Obligations against such Additional Guarantor without proceeding against the Borrower, any other Guarantor and/or any other Subsidiary of the Borrower against any security for the Guaranteed Obligations, or under any other guaranty covering all or a portion of the Guaranteed Obligations. Additionally, the Additional Guarantor hereby unconditionally, absolutely and irrevocably, jointly and severally with the other Guarantors, guarantees the payment by the Borrower of any and all Guaranteed Obligations whether or not due or payable upon the occurrence in respect of the Borrower of any of the events specified in Section 8.08 of the Term Loan Agreement, and

unconditionally and irrevocably, jointly and severally with the other Guarantors, promises to pay such Guaranteed Obligations to the Lender Creditors, or order, on demand. The Guaranty shall constitute a guaranty of payment and not of collection.

SECTION 3. Obligations Under the Guaranty. The undersigned hereby agrees, as of the date first above written, to be bound as a Guarantor by all of the terms and conditions of the Guaranty to the same extent as each of the other Guarantors thereunder. The undersigned further agrees, as of the date first above written, that each reference in the Guaranty to an "Additional Guarantor" or a "Guarantor" shall also mean and be a reference to the undersigned, and each reference in any other Loan Document to a "Guarantor" or a "Subsidiary Guarantor" shall also mean and be a reference to the undersigned.

SECTION 4. <u>Representations</u>, <u>Warranties and Covenants</u>. The undersigned hereby (a) makes each representation and warranty set forth in Section 11 of the Guaranty and (b) undertakes each covenant obligation set forth in the Guaranty, in each case to the same extent as each other Guarantor.

SECTION 5. <u>Governing Law.</u> THIS GUARANTY SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Very truly yours,
[NAME OF ADDITIONAL GUARANTOR]
By:
Name: Title:
Notice Address:

IN WITNESS WHEREOF, the undersigned has caused this Guaranty Supplement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

FORM OF SHARE PLEDGE AGREEMENT

[NAME OF COMPANY]

THIS SHARE PLEDGE AGREEMENT, dated as of [] [], 20[] (this " <u>Agreement</u> "), is made by [], a
organized and existing under the laws of [] (the "Pledgor"), and Citibank, N.A. ("Citibank"), as the pa	ari passu
collateral agent (the "Pari Passu Collateral Agent") for the Pari Pa	ssu Secured Parties (as defined below) (together with its success	ors and
assigns, in such capacity, the "Pledgee").		

Capitalized terms used herein shall have the respective meanings set forth on Annex A hereto and except as otherwise defined herein, capitalized terms defined in the Intercreditor Agreement shall have the same meaning when used herein.

PRELIMINARY STATEMENTS:

(1) [The Pledgor is the record and beneficial owner of [] percent ([]%) of the issue	ed and outstanding shares of
common stock (the "Pledged Shares") of [], a [] organized and existing under the	laws of [] (the "
<u>Company</u> "). The Company has an authorized share capital of [] shares of [no] par value [US\$[] each], and as at the date of this
Agreement [] shares of the Company are issued and outstandi	ng]. ¹	

- (2) Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (together with its successors and permitted assigns, the "<u>Borrower</u>") is party to the Revolving Credit Agreement pursuant to which the lenders from time to time party thereto have made available to the Borrower an extension of credit in the form of loans and letters of credit in the aggregate principal amount of Five Hundred Million United States Dollars (US\$500,000,000).
- (3) The Borrower is party to the Term Loan Agreement pursuant to which the lenders from time to time party thereto have advanced to the Borrower a term loan in the aggregate principal amount of Seven Hundred Fifty Million United States Dollars (US\$750,000,000).
- (4) The Borrower is party to the Indenture pursuant to which the Borrower, as issuer, has issued Seven Hundred Fifty Million United States Dollars (US\$750,000,000), aggregate principal amount of 5.375% senior secured notes due 2020 (the "Notes").
- (5) The Pledgor has executed its (x) Subsidiary Guaranty, as defined in the Revolving Credit Agreement (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guaranty (as defined in the Indenture) (the "Note Guarantee"), and (z) Subsidiary Guaranty, as defined in the Term Loan Agreement (the "Term Loan Agreement Guarantee and the Note Guarantee, the "Guarantees")

Revise recital as necessary to accurately describe the capital stock being pledged.

whereby the Pledgor has guaranteed the obligations of the Borrower under the Revolving Credit Agreement, the Term Loan Agreement and the Indenture, respectively. The Pledgor will receive substantial, direct and indirect, benefits through the extension of the loans under the terms of the Credit Facilities and related documents; and in consideration of such benefit and other good and valuable consideration and to secure its obligations under the Guarantees, the receipt and sufficiency of which are hereby acknowledged, the Pledgor has executed this Agreement.

- (6) In accordance with the terms of the Intercreditor Agreement, the parties thereto have, inter alia, agreed to certain matters relating to this Agreement, and the Credit Facilities.
- (7) It is a condition under the respective terms of the Credit Facilities that the Pledger pledges to the Pledgee all of the Pledged Shares.
- (8) The Pledgor has duly authorized the execution and delivery of this Agreement in order to secure the payment in full of the Pari Passu Obligations and to secure the performance and observance of all agreements, covenants and provisions by the Pledgor contained in this Agreement (collectively, the "Obligations").
- NOW, THEREFORE, to secure the prompt payment and performance of the Obligations and the performance and observance of all agreements, covenants and provisions contained herein, the Pledgor hereby agrees as follows:
- SECTION 1. <u>Pledge</u>. The Pledgor hereby pledges to the Pledgee, and grants to the Pledgee a security interest in, the following (the "<u>Pledged Collateral</u>"):
 - (a) the Pledged Shares of the Company and the certificates representing such Pledged Shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares:
 - (b) all additional shares of stock of the Company that may from time to time be acquired by the Pledgor in any manner, and the certificates representing such additional shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such additional shares; and
 - (c) any proceeds of any of the forgoing.

Promptly upon receipt of any additional shares and certificates representing such shares referred to in paragraph (b) above, the Pledgor will deliver such shares to the Pledgee in pledge hereunder.

SECTION 2. Security for Obligations . This Agreement secures the payment and performance of the Obligations.

SECTION 3. Delivery of Pledged Collateral. The Pledgor herewith delivers to the Pledgee:

- (a) the Pledged Shares, together with a fully completed, undated stock power, substantially in the form attached hereto as Exhibit A, executed by the Pledger duly evidencing the transfer of the Pledged Shares to, and in the name of, the Pledgee or of a nominee for, and chosen by, the Pledgee;
- (b) evidence satisfactory to the Pledgee that the share register of the Company has noted on it the existence of the security created by this Agreement over the Pledged Collateral.

The Pledgor agrees to take the same action with respect to any further shares of stock constituting Pledged Collateral forthwith upon the receipt thereof by the Pledgor.

SECTION 4. Representations, Warranties and Covenants of the Pledgor . The Pledgor represents and warrants as follows:

- (a) The Pledgor is a [] duly organized, validly existing and in good standing under the laws of []. The execution, delivery and performance by the Pledgor of this Agreement (i) are within the Pledgor's [] powers and have been duly authorized by all necessary [] action, (ii) do not contravene the Pledgor's constitutional documents or any law or any contractual restriction binding on or affecting the Pledgor, (iii) do not require any authorization or approval (including exchange control approval) or other action by, or any notice to or filing with, any governmental authority and (iv) except for the liens created by this Agreement, do not result in or require the creation or imposition of any lien upon or with respect to any of the properties or assets of the Pledgor or the Company. This Agreement is the legal, valid and binding obligation of the Pledgor enforceable against the Pledgor in accordance with its terms, except as (i) the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and (ii) rights of acceleration, if applicable, and the availability of equitable remedies may be limited to equitable principles of general applicability (regardless of whether enforcement is sought in equity or at law).
- (b) There is no tax, levy, impost, deduction, charge or withholding imposed by the jurisdiction of formation of the Pledgor either (i) on or by virtue of the execution, delivery or performance of this Agreement or any other document to be furnished hereunder or (ii) on any payment to be made by the Pledgor pursuant to this Agreement.
- (c) The Pledged Shares have been duly authorized and validly issued and are fully paid and non-assessable; the Pledger is the legal and beneficial owner of the Pledged Shares free and clear of any lien, security interest, option or other charge or encumbrance or preferential arrangement except for the security interest created by this Agreement. The pledge of the Pledged Shares pursuant to this Agreement creates a valid and duly perfected first priority pledge of and security interest in the Pledged Shares, securing the payment and performance of the Obligations and performance and observance of all agreements, covenants and provisions contained in this Agreement.

- (d) The Pledged Shares constitute the only issued and outstanding shares of stock of the Company, are common stock, have been duly authorized, are fully paid and non-assessable, are legally and beneficially owned and registered on the books of the Company as owned by the Pledger, and evidenced by the certficate(s) delivered to the Pledgee herewith.
 - (e) The statements contained in Preliminary Statements (1) (8) hereof are true, correct and complete.
- (f) If an Event of Default shall have occurred and be continuing, at the written request of the Pledgee, the Pledger agrees to cause its Pledged Shares to be duly registered on the books of the Company in the name of the Pledgee or as otherwise directed in writing by the Pledgee.

SECTION 5. <u>Further Assurances</u>. The Pledgor agrees that at any time and from time to time, at the expense of the Pledgor, the Pledgor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Pledgee may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Pledgee to exercise and enforce its rights (including, without limitation, the registration of the Pledged Collateral in the name of the Pledgee or its nominee) and remedies hereunder with respect to any Pledged Collateral, such exercise to be subject to Section 9(a) hereof.

SECTION 6. Voting Rights; Dividends; Etc.

- (a) <u>Irrevocable Proxy</u>. The Pledgor hereby agrees to grant, and does hereby grant, to the Pledgee for the benefit of the Pledgee, an irrevocable proxy in the form attached hereto as Exhibit B to (i) vote or cause to be voted any and all of the Pledged Shares and (ii) give or cause to be given consents, waivers and ratifications in respect thereof. Such proxy shall be valid until payment and performance in full of the Obligations. The Pledgee hereby agrees that until and unless an Event of Default shall have occurred and be continuing and the Pledgee shall have given notice to the Pledgor of the Pledgee's intention to exercise remedies, the Pledgee shall not exercise such proxy and, subject always to the provisions of Section 7 hereof, the Pledgor shall be entitled to (i) vote or cause to be voted any and all of the Pledged Shares, (ii) give, or cause to be given, consents, waivers and ratifications in respect thereof, <u>provided</u>, <u>however</u>, that the Pledgor shall not vote for or give any consent, waiver or ratification that would be inconsistent with any provisions of the Pari Passu Documents or that would have a material adverse effect on the value of the Pledged Collateral or any part thereof and (iii) receive and retain any and all dividends, interest and other distributions paid in respect of the Pledged Collateral. All such rights of the Pledgor to vote, or cause to be voted and to give, or cause to be given, consent, waivers and ratifications shall cease automatically in case an Event of Default shall occur and so long as it is continuing and the Pledgee shall have given notice to the Pledgor of the Pledgee's intention to exercise remedies. The Pledgor further agrees to execute the irrevocable proxy in the form attached hereto in Exhibit B.
- (b) So long as an Event of Default shall have occurred and be continuing, upon the Pledgee's written request, the Pledgor shall deliver, or permit to be delivered, and shall

instruct the Company to deliver, to the Pledgee to such account as the Pledgee may from time to time designate in writing, any and all dividends paid in respect of the Pledged Collateral, <u>provided</u>, <u>however</u>, that so long as an Event of Default shall have occurred and be continuing, any and all

- (i) dividends paid or payable other than in cash in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral;
- (ii) dividends and other distributions paid or payable in cash in respect of any Pledged Collateral in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in-surplus; and
 - (iii) cash paid, payable or otherwise distributed in redemption of, or in exchange for, any Pledged Collateral,

upon the Pledgee's written request, shall be, and shall be forthwith delivered to the Pledgee to hold as, Pledged Collateral and shall, if received by the Pledgor, be received in trust for the benefit of the Pledgee, be segregated from the other property or funds of the Pledgor, and be forthwith delivered to the Pledgee as Pledged Collateral in the same form as so received (with any necessary endorsement), to be applied as provided in and pursuant to this Agreement and the Credit Agreement. All dividends which are received by the Pledgor contrary to the provisions of this Section 6(b) shall be received in trust for the benefit of the Pledgee, shall be segregated from other funds of the Pledgor, and shall be forthwith paid over to the Pledgee as Pledged Collateral in the same form as so received (with any necessary endorsement).

- SECTION 7. <u>Transfers and Other Liens</u>; <u>Additional Shares</u>. (a) The Pledgor agrees that it will not (i) sell or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, except as permitted under the Pari Passu Documents, or (ii) create or permit to exist any lien, security interest, or other charge or encumbrance or preferential arrangement upon or with respect to any of the Pledged Collateral, except for the security interests under this Agreement.
- (b) The Pledgor agrees that it will cause the Company not to issue any stock or other securities whatsoever, whether in addition to or in substitution for the Pledged Shares, or any other issued or authorized shares of the Company, without the Pledgee's prior written consent, except for Pledged Shares in favor of the Pledgor that are pledged hereunder.
- SECTION 8. <u>Pledgee May Perform.</u> (a) If the Pledgor fails to perform any agreement contained herein, the Pledgee may itself perform, or cause performance of, such agreement, and such performance shall not relieve the Pledgor of any default in respect of the Pledgor's failure and the expenses of the Pledgee incurred in connection therewith shall be payable by the Pledgor under Section 10 hereof.
- (b) The Pledgee shall hold the Pledged Collateral in accordance with its standard practices for holding such property, it being understood that the Pledgee shall not have any responsibility for (i) ascertaining or taking action with respect to calls, conversions,

exchanges, maturities, tenders or other matters relating to any Pledged Collateral, whether or not the Pledgee has or is deemed to have knowledge of such matters, or (ii) taking any necessary steps to preserve the rights against any parties with respect to any Pledged Collateral.

SECTION 9. Events of Default and Remedies. (a) Notwithstanding anything to the contrary stated herein, the Pledgee shall not exercise any of the remedies set forth in this Agreement unless and until an Event of Default has occurred and is continuing.

- (b) If an Event of Default shall have occurred and be continuing:
- (i) The Pledgee may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or in the Pari Passu Documents, as the case may be or otherwise available to it, all the rights and remedies of a secured party on default under the law of the State of New York or any other applicable law in effect at that time. The Pledgee may also, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Pledgee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Pledgee may deem commercially reasonable, provided that at least ten (10) days' prior written notice of the time and place of any such sale shall be given to the Pledger. The Pledgee shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Pledgee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.
- (ii) Any cash held by the Pledgee as Pledged Collateral and all cash proceeds received by the Pledgee in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Pledgee, be held by the Pledgee as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Pledgee pursuant to Section 10) in whole or in part by the Pledgee against, all or any part of the Obligations in accordance with the terms of the Intercreditor Agreement. Any surplus of such cash or cash proceeds held by the Pledgee and remaining after payment and performance in full of the Obligations shall be paid over to the Borrower or its order.

SECTION 10. Expenses. The Pledgor will upon demand pay to the Pledgee the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, that the Pledgee may reasonably incur in connection with (i) the administration of this Agreement, (ii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral, (iii) the exercise or enforcement of any of the Pledgee hereunder or (iv) the failure by the Pledgor to perform or observe any of the provisions hereof.

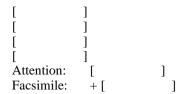
SECTION 11. <u>Security Interest Absolute</u>. All rights of the Pledgee and security interests hereunder, and all obligations of the Pledgor hereunder, shall be absolute and

unconditional irrespective of (i) any lack of validity or enforceability of any Pari Passu Document or any other agreement or instrument delivered pursuant or relating thereto, (ii) any amendment to any Pari Passu Document or any other agreement or instrument delivered pursuant or relating thereto, or (iii) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Pledgor in respect of the Obligations or this Agreement.

SECTION 12. <u>Amendments, Etc.</u> No amendment or waiver of any provision of this Agreement nor consent to any departure by the Pledgor herefrom shall in any event be effective unless the same shall be in writing and signed by the Pledgee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

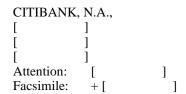
SECTION 13. <u>Addresses for Notices</u>. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party at:

(a) in the case of the Pledgor:



(b) in the case of the Pledgee:

Citibank, N.A., as Pari Passu Collateral Agent



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved

by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

SECTION 14. Continuing Security Interest. This Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and effect until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, (ii) be binding upon the Pledger, its successors and assigns, and (iii) inure to the benefit of the Pledgee on behalf of the Pari Passu Secured Parties and the Pledgee's successors and such transferees and assigns as may be permitted under the Pari Passu Documents. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the Pledgor shall be entitled to the return, upon its request and at its expense, to the Borrower on behalf of the Pledgor of such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof.

SECTION 15. GOVERNING LAW.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK. IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, PLEDGOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS, PLEDGOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER PLEDGOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER PLEDGOR. PLEDGOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 13 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. PLEDGOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST PLEDGOR IN ANY OTHER JURISDICTION.

- (b) PLEDGOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN PARAGRAPH (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- SECTION 16. <u>Counterparts</u>. This Agreement may be executed by the parties hereto on separate counterparts, each of which shall constitute one and the same instrument.
- SECTION 17. <u>Severability</u>. Invalidity, unenforceability, or invalidation of any one or more of the provisions of this Agreement for any reason shall in no way affect any other provisions hereof, which other provisions shall remain in full force and effect.
- SECTION 18. Entire Agreement. This Agreement embodies the entire agreement and understanding among the parties hereto and supersedes all prior agreements and understandings related to the subject matter hereof.
- SECTION 19. Conflict. In the event of a direct conflict between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Agreement sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Agreement as not being in direct conflict with the Intercreditor Agreement. The Pari Passu Collateral Agent shall have all the benefits, indemnities, powers, privileges, protections and rights contained in the Intercreditor Agreement (including for the avoidance of any doubt, Article III of the Intercreditor Agreement) in connection with acting in its capacity as Pledgee hereunder

[The remainder of this page has been left intentionally blank.]

IN WITNESS WHEREOF each of the parties hereto has caused this Share Pledge Agreement to be duly executed and delivered by its officer or attorney-in-fact thereunto duly authorized as of the date first above written.

PLEDGOR
[NAME OF PLEDGOR]
By: Name: Title:
<u>PLEDGEE</u>
CITIBANK, N.A., as Pari Passu Collateral Agent
By: Name: Title:

[Signature Page to Share Pledge Agreement]

ANNEX A

- 1.1 Definitions: In this Agreement, unless the context otherwise requires:
 - "Credit Facilities" means the Revolving Credit Agreement, the Term Loan Agreement and the Indenture.
- "Indenture" means that certain Indenture dated as of the date hereof, among the Borrower, as issuer, the guarantors from time to time party thereto, and the Trustee, as the same has been and may be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- "Intercreditor Agreement" means that certain Intercreditor Agreement dated as of June 3, 2013, by and among the Pari Passu Collateral Agent, the Trustee, the Revolving Credit Agent, the Term Loan Agent, the Borrower, the Pledgor and each other Grantor, as it may be amended, restated, supplemented or otherwise modified in accordance with its terms, including pursuant to the Joinder Agreements.
- "Revolving Credit Agreement" means that certain Credit Agreement, dated as of June 3, 2013, among the Borrower, as borrower, various lenders from time to time party thereto, Citibank N.A., as administrative agent and issuing lender, and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- "<u>Term Loan Agreement</u>" means that certain Term Loan Agreement dated as of the date hereof, among the Borrower, as borrower, the lenders from time to time party thereto, Citibank, N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "<u>Term Loan Agent</u>"), and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- 1.2. Other Defined Terms. Except as otherwise defined herein, capitalized terms defined in the Intercreditor Agreement shall have the same meaning when used herein.

EXHIBIT A²

FORM OF STOCK POWER

the certificate having the certificate number and to w	creby sells, assigns and transfers unto , the number of shares of common tanding in the name of the undersigned on the books of said Company represented by hich this Stock Power is attached, and does hereby irrevocably constitute and appoint a sfer said shares on the books of the Company with full power of substitution in the
Dated:	
	[NAME OF PLEDGOR]
	By:
	Name:
	Title:
In presence of:	
Witness	

Original Counterparts of this Stock Power to be executed will equal the number of Stock Certificates pledged (e.g., one Stock Power per Certificate).

EXHIBIT B

FORM OF IRREVOCABLE PROXY 3

The undersigned hereby constitutes and appoints CITIBANK, N.A., as the Pari Passu Collateral Agent for the Pari Passu Secured

Parties, in its capacity as Pledgee, under the Share Pledge Agreement hereinafter referred to, its attorney and proxy to appear, vote and otherwise
act, all in the name, place and stead of the undersigned in the same manner that the undersigned might do and with the same powers, with respect
to all of the shares of stock of [], a [] (the "Company"), owned or hereafter acquired by the undersigned, at any and all
meetings of shareholders of the Company, on any and all matters, questions and resolutions that may come before such meetings, including, but
not limited to, the election of directors, or at any adjournment or adjournments thereof, or to consent on behalf of the undersigned in the absence
of a meeting to anything that might have been voted on at such a meeting.
This irrevocable proxy is coupled with an interest, is given in connection with a pledge pursuant to a Share Pledge Agreement dated [] [], 20[](as amended, modified or supplemented, the "Pledge Agreement"), is subject to the rights of the undersigned as a Pledgor set forth in Section 6(a) of the Pledge Agreement and is irrevocable. It shall continue in effect so long as the debt for which the pledge is granted as security remains unpaid.

The attorney and proxy named herein is hereby given full power of substitution and revocation and may act through such agents, nominees or substitute attorneys as it may from time to time appoint.

The powers of such attorney and proxy shall include (without limiting its general powers hereunder) the power to receive and waive any notice of any meeting on behalf of each of the undersigned.

[NAME OF PLEDGOR]

By:			
	Name:		
	Title:		

Exhibit B-1

Original counterparts of this Irrevocable Proxy to be executed will equal the number of Stock Certificates pledged (e.g. one Irrevocable Proxy per Certificate).

EXH	BIT	D

FORM OF ASSIGNMENT OF INSURANCE PROCEEDS

given by
[],
as the Assignor
in favor of
CITIBANK, N.A.,
as the Assignee

[DATE]

[VESSEL]

THIS ASSIGNMENT OF INSURA	ANCE PROCEEDS (as	s amended, supp	plemented or otherwise modified from time to time, this "	Assignment
"), dated as of [] [], 20[], is made by [], a [] organized and existing under the laws of [] with its
registered office located at [] (the " Assignor	"), in favor of i	n favor of CITIBANK, N.A., as the pari passu collateral a	gent (the "
Pari Passu Collateral Agent") for t	the Pari Passu Secured	Parties (as defin	ned in the Intercreditor Agreement referred to below) (togethere)	ether with its
successors and assigns in such cap	acity, the " Assignee ")).		

WITNESSETH THAT:

XX	ч	$\mathbf{F}\mathbf{I}$	RЕ	Δ	C.	•
* *	11	ப	\sim	7	v.	

	(A) [The Assignor is the sole owner of the whole of the [] registered drillship [] (the " <u>Vessel</u> "), Official
No. []] 1;		

- (B) The Assignor has entered into a (x) Subsidiary Guaranty as described in the Revolving Credit Agreement (as defined below) (the "Credit Agreement Guarantee"), (y) Subsidiary Guaranty (as defined in the Indenture (as defined below) (the "Note Guarantee")), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (defined below) (the "Term Loan Agreement Guarantee"), and, together with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees") whereby the Assignor has guaranteed the obligations of Pacific Drilling S.A., a Luxembourg corporation organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company") under and in connection with that certain (i) Credit Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among the Company, as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement Agent") and issuing lender, (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"), and (iii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agent"), and (iiii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agent"), and (iiii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agent"), and (iiii) Indenture, the
- (C) In connection with the execution and delivery of the Credit Facilities, the Assignee, the Revolving Credit Agreement Agent, the Term Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto, have entered into the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Intercreditor Agreement"); and
- (D) This Assignment is given as security for all of the Pari Passu Obligations (as defined in the Intercreditor Agreement) under the Pari Passu Documents (as defined in the Intercreditor Agreement).

¹ Revise clause as necessary for an Internal Charterer.

- NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Assignor, the Assignor hereby agrees as follows:
- SECTION 1. <u>Defined Terms</u>. Except as otherwise defined herein, terms defined in the Intercreditor Agreement shall have the same meanings when used herein.
 - "Indenture" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- "Insurances" means policies and contracts of insurance from time to time taken out by or on behalf of the Assignor in respect of the Vessel or its operations including but not limited to (i) hull and machinery (including increased value insurance and war risk insurance) and (ii) loss of hire but excluding Protection and Indemnity insurance.
- "Insurance Proceeds" means all monies payable to the Assignor under or in connection with (i) the Insurances, whether heretofore, now or hereafter effected, and all renewals or replacements for same, and (ii) all claims, returns of premium or other amounts and other moneys due and to become due under or in respect of Insurances.
 - "Intercreditor Agreement" has the meaning ascribed to it in Whereas Clause C of this Assignment.
- "<u>Lien</u>" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, and any lease having substantially the same effect as any of the foregoing).
 - "Revolving Credit Agreement" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- "Security Agreement" means that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.
 - "Term Loan Agreement" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- SECTION 2. <u>Grant of Security</u>. As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Pari Passu Obligations, the Assignor, as legal and beneficial owner, does hereby assign, transfer and set over unto the Assignee, for the benefit of the Pari Passu Secured Parties, and does hereby grant the Assignee, for the benefit of the Pari Passu Secured Parties, a

continuing security interest in, all of the Assignor's right, title and interest in, to and under the following (collectively, the "Assigned Property"): (a) all Insurance Proceeds and (b) all proceeds of the foregoing; provided, however, that notwithstanding anything to the contrary contained in this Section 2, the security interest created by this Assignment shall not extend to, and the term "Assigned Property" shall not include, any Excluded Property (as defined in the Security Agreement).

SECTION 3. <u>Loss Payable Clauses</u>. The Assignor shall ensure that: (a) all Insurances, as such Insurances relate to the Vessel, in respect of hull and machinery (including increased value insurance and war risk) shall contain a loss payable clause in substantially the form attached hereto as Exhibit 1; and (b) all Insurances in respect loss of hire shall contain a loss payable clause in substantially the form attached hereto as Exhibit 2.

SECTION 4. <u>Covenants and Undertakings</u>; <u>Notices</u>. The Assignor hereby covenants with the Assignee and undertakes that: (a) it shall do or permit to be done each and every act or thing which the Assignee may from time to time require to be done for the purpose of enforcing the Assignee's rights under this Assignment and shall allow its name to be used as and when required by the Assignee for that purpose;

- (b) it shall forthwith give notice substantially in the form annexed hereto as Exhibit 3, or cause its insurance brokers to give notice, of this Assignment to all insurers, underwriters, clubs and associations providing the Insurances and request that such notice be endorsed on all the policies and entries of Insurances; and
- (c) as an inducement to the Assignee to accept this Assignment, that (a) the Insurances are in full force and effect and are enforceable in accordance with their respective terms, (b) the Assignor is not in default thereunder, (c) no entity other than the signatories hereto has any interest in any of the Insurances (except any entity which has previously assigned such interest to the Assignee), and (d) it has not assigned, pledged or in any way created or suffered to be created any security interest in the whole or any part of the right, title and interest hereby assigned, except for Liens permitted under the Pari Passu Documents.

SECTION 5. No Duty of Inquiry. The Assignee shall not be obliged to make any inquiry as to the nature or sufficiency of any payment received by it hereunder or to make any claim or take any other action to collect any moneys or to enforce any rights and benefits hereby assigned to the Assignee or to which the Assignee may at any time be entitled hereunder. The Assignor shall remain liable to perform all of its obligations in relation to the Assigned Property and the Assignee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever (including, without limitation, any obligation or liability with respect to the payment of premiums, calls, assessments or any other sums at any time due and owing in respect of the Insurances) in the event of any failure by the Assignor to perform such obligations.

SECTION 6. <u>Power of Attorney</u>. The Assignor does hereby irrevocably appoint and constitute the Assignee as the Assignor's true and lawful attorney-in-fact with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys assigned hereby, to endorse any

checks or other instruments or orders in connection therewith, to file any claims or take any action or institute any proceedings which the Assignee may deem to be necessary or advisable and otherwise to do any and all things which the Assignor itself could do in relation to the Assigned Property. Anything in this Section 6 to the contrary notwithstanding, (a) the Assignee agrees that it will not exercise any rights under the power of attorney provided for in this Section 6 unless an Event of Default shall have occurred and be continuing, and (b) the parties agree that the grant of the power of attorney set forth in this Section 6 shall not be deemed to create an obligation on the part of the Assignee to take any one or more of the actions described herein.

SECTION 7. <u>UCC Filings</u>. The Assignor does hereby authorize the Assignee to do all things the Assignee may deem to be necessary or advisable in order to perfect or maintain the security interest granted by this Assignment including, but not limited to, filing any and all Uniform Commercial Code financing statements or renewals thereof in any applicable jurisdictions. For the avoidance of doubt, nothing herein shall require the Assignee to file any such financing statements or any continuation statements, or be responsible for maintaining the security interests purported to be created by this Assignment (except for the safe custody of any Assigned Property in its possession and the accounting for moneys actually received by it under this Assignment) and such responsibility shall be solely that of the Assignor.

SECTION 8. <u>Application of Proceeds</u>. All moneys collected or received from time to time by the Assignee pursuant to this Assignment shall be applied in accordance with the terms of the Intercreditor Agreement.

SECTION 9. Miscellaneous.

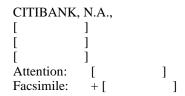
- 9.1 <u>Further Assurances</u>. The Assignor agrees that if this Assignment shall at any time be insufficient in whole or in part to create a valid security interest in the Assigned Property, it shall execute or cause to be executed such other documents or deliver or cause to be delivered such further assurances as may be necessary in order to create a valid security interest in the Assigned Property.
- 9.2 <u>Remedies Cumulative and Not Exclusive; No Waiver</u>. No failure on the part of the Assignee or any Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Assignment shall in any manner impair or affect other security for the Pari Passu Obligations. The rights and remedies of the Assignee provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.
- 9.3 <u>Successors and Assigns</u>. This Assignment and all obligations of the Assignor hereunder shall be binding upon the successors and assigns of the Assignor and shall, together with the rights and remedies of the Assignee hereunder, inure to the benefit of the Assignee and its successors and assigns.

- 9.4 <u>Waiver</u>; <u>Amendment</u>. No amendment, modification or waiver of any provision of this Assignment, and no consent to any departure by the Assignor herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.
- 9.5 <u>Invalidity</u>. Any provision of this Assignment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.
- 9.6. Notices. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party at:

<u>If to the Assignor</u>:

[]	
[]	
[]	
[]	
Attention:	[]
Facsimile:	+ [1

If to the Assignee:



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written

acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 9.7 <u>Electronic Delivery</u>. Delivery of an executed copy of this Assignment by facsimile or electronic transmission shall be deemed as effective as delivery of an originally executed copy. In the event that the Assignor delivers an executed copy of this Assignment by facsimile or electronic transmission, the Assignor shall also deliver an originally executed copy as soon as practicable, but the failure of the Assignor to deliver an originally executed copy of this Assignment shall not affect the validity or effectiveness of this Assignment.
- 9.8 <u>References</u>. References herein to Sections and Exhibits are to be construed as references to sections of, and exhibits to, this Assignment, unless the context otherwise requires.
- 9.9 <u>Headings</u>. In this Assignment, Section headings are inserted for convenience of reference only and shall not be taken into account in the interpretation of this Assignment.
- 9.10 <u>Termination</u>. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the continuing security interest granted hereby shall terminate and all rights to the Assigned Property shall revert to the Assignor. Upon any such termination, the Assignee will, at the Assignor's sole expense, execute and deliver to the Assignor such documents as the Assignor shall reasonably request to evidence such termination.
- 9.11 <u>Discretion of the Assignee</u>. Notwithstanding anything else to the contrary herein, the Assignee shall not have any duty to take any discretionary action or exercise any discretionary powers; *provided*, *however*, that if the taking or exercise of any such discretionary action could reasonably be expected to expose the Assignee to any loss, liability or expense, the Assignee shall have received, upon request therefor, indemnity or security (or both) satisfactory to it against such loss, liability or expense that might be incurred in connection therewith. Whenever reference is made herein to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Assignee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Assignee, it is understood that in all cases the Assignee shall have no duty and shall be fully justified in failing or refusing to take any such action unless it shall have received written instructions from the Controlling Party.

9.12 Governing Law, Jurisdiction and Waivers .

(a) THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS

ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9.6 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

- (b) ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN SECTION 9.12(a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- 9.13 <u>Conflict.</u> In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

[Signature page follows]

Exhibit D Page 9

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed and delivered as of the day and year first above written.

[NAME OF ASSIGNOR]
By: Name:
Title:

[Signature Page to Assignment of Insurance Proceeds]

Acknowledged and Agreed to on the day and year first above written:

Assignee	
By:	
Name:	
Title:	
[Signature Page to Assignment of Insurance Proceeds]	

CITIBANK, N.A., as the Pari Passu Collateral Agent, as

EXHIBIT 1

FORM OF LOSS PAYABLE CLAUSE

Hull and Machinery (Marine and War Risks)

Loss with respect to [] registered drillship [] (the "Vessel"), Official No. [], if any, shall be payable to the order of CITIBANK, N.A., as the Pari Passu Collateral Agent for itself and certain other Pari Passu Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Pari Passu Collateral Agent"), to such account and/or bank as the Pari Passu Collateral Agent may notify to the Insurer from time to time in writing.

A payment to the Pari Passu Collateral Agent in accordance with this loss payable clause, to the extent of that payment, shall discharge the liability of the insurer to pay the Owner or any other claimant insured party.

Exhibit 1-1

EXHIBIT 2

FORM OF LOSS PAYABLE CLAUSE

Loss of Hire

Loss, if any, shall be payable to the order of CITIBANK, N.A., as the Pari Passu Collateral Agent for itself and certain other Pari Passu Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Pari Passu Collateral Agent"), for distribution by the Pari Passu Collateral Agent to itself and to [] (the "Owner"), as their respective interests may appear, or order, except that, unless underwriters have been otherwise instructed by notice in writing from the Pari Passu Collateral Agent, the underwriters may pay the proceeds of such insurance directly to the Owner.

A payment to the Pari Passu Collateral Agent in accordance with this loss payable clause, to the extent of that payment, shall discharge the liability of the insurer to pay the Owner or any other claimant insured party.

Exhibit 2-1

EXHIBIT 3

FORM OF NOTICE OF ASSIGNMENT OF INSURANCE PROCEEDS

TO:

П	$\Gamma \Lambda$	KI	□ '	NT	\cap	т	T	\sim	С.
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(a) that by an Assignment of Insurance Proceeds dated as of [] [], 20[] (as amended, supplemented or otherwise to date,
the "Assignment of Insurance Proceeds") made by [] (the "Assignor", "we" or "us"), to CITIBANK, N.A., as the pari passu
collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties (as defined in the Intercreditor Agreement referred to in
the Assignment of Insurances Proceeds) (in such capacity, together with its successors and assigns in such capacity, the "Assignee"), a copy of
which is attached hereto, we have assigned to the Assignee, inter alia, all our right, title and interest in, to and under all monies payable to us
under or in connection with policies and contracts of insurance from time to time taken out by or on behalf of the Assignor in respect of the
[] flag vessel [], Official No. [] (the " <u>Vessel</u> ") or its operations including but not limited to (i) hull and
machinery (including increased value insurance and war risk insurance) and (ii) loss of hire but excluding Protection and Indemnity insurance,
whether heretofore, now or hereafter effected, and all renewals or replacements for same, (iii) all claims, returns of premium or other amounts
and other moneys due and to become due under or in respect of such insurances and (iv) all proceeds of any of the forgoing (collectively, the "
<u>Insurances"</u>);

- (b) that you are hereby irrevocably authorized and instructed to pay as from the date hereof all payments under all Insurances in accordance with the loss payable clause attached hereto as Exhibit 1 or Exhibit 2, as applicable, of the Assignment of Insurance Proceeds; and
- (c) that you are hereby requested and instructed to endorse the assignment, notice of which is given to you herein, on all policies or entries in respect of the Insurances.

DATED: [•], 20[•]

[Signature Page Follows]

Exhibit 3-1

[], as owner			
By:					
	Name: Title:				
[], as []		
By:					
	Name: Title:				

[Add other signatories if appropriate]

EXHIBIT	\mathbf{r}
EXHIBIT	н.

FORM OF ASSIGNMENT OF EARNINGS

given by

[],

as the Assignor

in favor of

CITIBANK, N.A.,
as the Assignee

[DATE]

[VESSEL]

dated as of [] [], 20[], is made by [], a [] organized and existing under the laws of [] with its registered office located at [] (the "Assignor"), in favor of CITIBANK, N.A., as pari passu collateral agent (the "Pari Passu
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Collateral Agent") for the Pari Passu Secured Parties (as defined in the Intercreditor Agreement referred to below) (together with its successors
and assigns in such capacity, the "Assignee").

WITNESSETH THAT:

W.	H	FR	F	Δ	C	
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	(A) [The Assignor is the sole owner of the whole of the [] registered drillship [] (the " <u>Vessel</u> "), Official
No. []] 1;		

- (B) The Assignor has entered into a (x) Subsidiary Guaranty as described in the Revolving Credit Agreement (as defined below) (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guarantee (as defined in the Indenture (as defined below) (the "Note Guarantee")), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (defined below) (the "Term Loan Agreement Guarantee", and, together with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees") whereby the Assignor has guaranteed the obligations of Pacific Drilling S.A., a Luxembourg corporation organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company") under and in connection with that certain (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement Agent") and issuing lender, (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agreement") and (iii) Indenture, the "Indenture" agent (the "Greement Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"):
- (C) In connection with the execution and delivery of the Credit Facilities, the Assignee, the Revolving Credit Agreement Agent, the Term Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto, have entered into the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Intercreditor Agreement"); and
- (D) This Assignment is given as security for all of the Pari Passu Obligations (as defined in the Intercreditor Agreement) under the Pari Passu Documents (as defined in the Intercreditor Agreement).

¹ Revise clause as necessary for an Internal Charterer.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Assignor, the Assignor hereby agrees as follows:

SECTION 1. <u>Defined Terms</u>. Except as otherwise defined herein, terms defined in the Intercreditor Agreement shall have the same meanings when used herein.

- "<u>Drilling Contract</u>" means any charterparty, pool agreement or drilling contract in respect of the Vessel or other contract for use of the Vessel.
- "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Assignor as a consequence of the operation of the Vessel, including without limitation payments under any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Assignor as a consequence of the operation of the Vessel, (iii) compensation payable to the Assignor in the event of the requisition of the Vessel, (iv) all remuneration for salvage, towage and other services performed by the Vessel and payable to the Assignor, (v) all demurrage and retention money receivable by the Assignor in relation to the Vessel, (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings, (vii) if and whenever the Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel, and (viii) any other money whatsoever due or to become due to the Assignor in relation to the Vessel.
 - " Earnings Account" has the meaning ascribed to it in the Security Agreement.
 - "Excluded Collateral" has the meaning ascribed thereto in the Security Agreement.
 - " Indenture" has the meaning ascribed to it in Whereas Clause B of this Assignment.
 - " Intercreditor Agreement" has the meaning ascribed to it in Whereas Clause C of this Assignment.
 - "Revolving Credit Agreement" has the meaning ascribed to in Whereas Clause B of this Assignment.
- "Security Agreement" means that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.

- "Term Loan Agreement" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- "Vessel" has the meaning ascribed to it in Whereas Clause A of this Agreement.

SECTION 2. <u>Grant of Security</u>. As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Pari Passu Obligations, the Assignor, as legal and beneficial owner, does hereby assign, transfer and set over unto the Assignee, for the ratable benefit of the Pari Passu Secured Parties, and does hereby grant the Assignee, for the ratable benefit of the Pari Passu Secured Parties, a continuing security interest in, all of the Assignor's right, title and interest in, to and under the following (collectively, the "<u>Assigned Property</u>"): (i) all Earnings and (ii) all proceeds of Earnings; <u>provided</u>, <u>however</u>, that notwithstanding anything to the contrary contained in this Section 2, the security interest created by this Assignment shall not extend to, and the term "Assigned Property" shall not include, any Excluded Collateral.

SECTION 3. <u>Notice of Assignment</u>. Within 10 Business Days of the date of this Assignment, in connection with any existing Drilling Contract, and promptly upon its entry into any new Drilling Contract, the Assignor shall give notice, substantially in the form attached hereto as Exhibit 1, of this Assignment to the counterparty to such Drilling Contract.

SECTION 4. Performance under Drilling Contracts; No Duty of Inquiry. The Assignor hereby covenants and undertakes that, notwithstanding the assignment herein contained, it shall punctually perform all its obligations under all Drilling Contracts, to which it is a party. It is hereby expressly agreed that, anything contained herein to the contrary notwithstanding, the Assignor shall remain liable under all Drilling Contracts to which it is a party and shall perform its obligations thereunder, and the Assignee shall have no obligation or liability under any such Drilling Contract by reason of or arising out of the assignment contained herein, nor shall the Assignee be required to assume or be obligated in any manner to perform or fulfill any obligation of the Assignor under or pursuant to any such Drilling Contract or to make any payment or make any inquiry as to the nature or sufficiency of any payment received by the Assignee, or to present or file any claim or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled hereunder or pursuant hereto at any time or times.

SECTION 5. <u>Power of Attorney</u>. The Assignor does hereby irrevocably appoint and constitute the Assignee as the Assignor's true and lawful attorney-in-fact with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys assigned hereby, to endorse any checks or other instruments or orders in connection therewith, to file any claims or take any action or institute any proceedings which the Assignee may deem to be necessary or advisable and otherwise to do any and all things which the Assignor itself could do in relation to the Assigned Property. Anything in this Section 5 to the contrary notwithstanding, (a) the Assignee agrees that it will not exercise any rights under the power of attorney provided for in this Section 5

unless an Event of Default shall have occurred and be continuing, and (b) the parties agree that the grant of the power of attorney set forth in this Section 5 shall not be deemed to create an obligation on the part of the Assignee to take any one or more of the actions described herein.

SECTION 6. <u>UCC Filings</u>. The Assignor does hereby authorize the Assignee to do all things the Assignee may deem to be necessary or advisable in order to perfect or maintain the security interest granted by this Assignment including, but not limited to, filing any and all Uniform Commercial Code financing statements or renewals thereof in any applicable jurisdictions. For the avoidance of doubt, nothing herein shall require the Assignee to file any such financing statements or any continuation statements, or be responsible for maintaining the security interests purported to be created by this Assignment (except for the safe custody of any Assigned Property in its possession and the accounting for moneys actually received by it under this Assignment) and such responsibility shall be solely that of the Assignor.

SECTION 7. <u>Application of Proceeds</u>. All moneys collected or received from time to time by the Assignee pursuant to this Assignment shall be applied in accordance with the terms of the Intercreditor Agreement.

SECTION 8. Earnings Account . The Assignor shall procure that all Earnings are promptly credited to an Earnings Account.

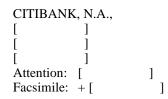
SECTION 9. Miscellaneous.

- 9.1 <u>Further Assurances</u>. The Assignor agrees that if this Assignment shall at any time be insufficient in whole or in part to create a valid security interest in the Assigned Property, it shall execute or cause to be executed such other documents or deliver or cause to be delivered such further assurances as may be necessary in order to create a valid security interest in the Assigned Property.
- 9.2 Remedies Cumulative and Not Exclusive; No Waiver. No failure on the part of the Assignee or any other Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Assignment shall in any manner impair or affect other security for the Pari Passu Obligations. The rights and remedies of the Assignee provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.
- 9.3 <u>Successors and Assigns</u>. This Assignment and all obligations of the Assignor hereunder shall be binding upon the successors and assigns of the Assignor and shall, together with the rights and remedies of the Assignee hereunder, inure to the benefit of the Assignee, its respective successors and assigns.
- 9.4 <u>Waiver</u>; <u>Amendment</u>. No amendment, modification or waiver of any provision of this Assignment, and no consent to any departure by the Assignor herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.

- 9.5 <u>Invalidity</u>. Any provision of this Assignment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.
- 9.6 Notices. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); provided, however, that notices and other communications to the Assignee shall not be effective until received by the Assignee. All notices and other communications shall be in writing and addressed to such party at:
 - (a) in the case of the Assignor:

]]	
]]	
]]	
]]	
Attention:	[]
Facsimile:	+ [1

(b) in the case of the Assignee:



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

9.7 <u>Electronic Delivery</u>. Delivery of an executed copy of this Assignment by facsimile or electronic transmission shall be deemed as effective as delivery of an originally executed copy. In the event that the Assignor delivers an executed copy of this Assignment by facsimile or electronic transmission, the Assignor shall also deliver an originally executed copy as soon as practicable, but the failure of the Assignor to deliver an originally executed copy of this Assignment shall not affect the validity or effectiveness of this Assignment.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 9.8 <u>References</u>. References herein to Sections and Exhibits are to be construed as references to sections of, and exhibits to, this Assignment, unless the context otherwise requires.
- 9.10 <u>Headings</u>. In this Assignment, Section headings are inserted for convenience of reference only and shall not be taken into account in the interpretation of this Assignment.
- 9.11 <u>Termination</u>. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the continuing security interest granted hereby shall terminate and all rights to the Assigned Property shall revert to the Assignor. Upon any such termination, the Assignee will, at the Assignor's sole expense, execute and deliver to the Assignor such documents as the Assignor shall reasonably request to evidence such termination.
- 9.12 <u>Discretion of the Assignee</u>. Notwithstanding anything else to the contrary herein, the Assignee shall not have any duty to take any discretionary action or exercise any discretionary powers; *provided*, *however*, that if the taking or exercise of any such discretionary action could reasonably be expected to expose the Assignee to any loss, liability or expense, the Assignee shall have received, upon request therefor, indemnity or security (or both) satisfactory to it against such loss, liability or expense that might be incurred in connection therewith. Whenever reference is made herein to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Assignee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Assignee, it is understood that in all cases the Assignee shall have no duty and shall be fully justified in failing or refusing to take any such action under unless it shall have received written instructions from the Controlling Party (as defined in the Intercreditor Agreement), subject to the proviso set forth in the immediately preceding sentence.

SECTION 10. Governing Law, Jurisdiction and Waivers .

10.1 Governing Law . THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9.6 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

10.2 ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN SECTION 10.1 ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

10.3 EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

10.4 <u>Conflict.</u> In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

[Signature page follows]

Exhibit E Page 10

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed and delivered on the day and year first above written.

[NAME	OF ASSIGNOR]
Ву:	
Name:	
Title:	
[Signature Page to Assignment of Earnings]	

Acknowledged and	d Agreed to	on the day	and year	first above	written:

CITIBANK, N.A.,	
as the Assignee	
D.	

Ву:	
Name:	
Title:	

[Signature Page to Assignment of Earnings]

FORM OF EARNINGS ASSIGNMENT NOTICE

TO: [Counterparty to Drilling Contract]

TAKE NOTICE:

(a) that by an Assignment of Earnings dated as of [•], 20[•] made by us to CIT	IBANK, N.A., as the Pari Passu Collateral
Agent (as defined in the Assignment) for the Pari Passu Secured F	Parties (as defined in the Assign	ment) (together with its successors and assigns
in such capacity, the "Assignee"), we, [the owner of the [] registered drillship [] (the " <u>Vessel</u> "), Official No.
[]] ² , have assigned to the Assignee a security interest in all	ll our right, title and interest in a	and to:

- (i) all freight, hire and passage moneys due or to become due to the Assignor as a consequence of the operation of the Vessel, including without limitation payments of any nature under any present or future charterparty, pool agreement or drilling contract in respect of the Vessel or other contract for use of the Vessel;
- (ii) any claim under any guarantee in respect of any charterparty, pool agreement or drilling contract or contract in respect of the Vessel or other contract for use of the Vessel or otherwise related to freight, hire or passage moneys payable to the Assignor as a consequence of the operation of the Vessel;
- (iii) any compensation payable to the Assignor in the event of any requisition of the Vessel;
- (iv) all remuneration for salvage, towage and other services performed by the Vessel and payable to the Assignor;
- (v) all demurrage and retention money receivable by the Assignor in relation to the Vessel;
- (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings;
- (vii) if and whenever the Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel;

Exhibit 1-1

² Revise bracketed language as necessary for an Internal Charterer.

(b) that you are hereby irrevocably authorized and instructed to pay as frosuch other account as the Assignee may direct from time to time):	om the date hereof all of such aforesaid moneys as follows (or to
Bank Name: [
Address: []	
Account Name: []	
Account Number: []	
ABA/Routing: []	
Swift: [
DATED: [•], 20[•]	
	[NAME OF ASSIGNOR]
	By:
	Name:
	Title:

any other money whatsoever due or to become due to the Assignor in relation to the Vessel; and

(viii)

(ix)

all proceeds of the foregoing; and

Exhibit 1-2

FORM OF ASSIGNMENT OF MANAGEMENT AGREEMENT 1

[NAME OF COLLATERAL VESSEL]

By this Assignment of Management Agreement, dated as of [] [], 20[] (as amended, amended and restated, supplemented
or otherwise modified from time to time, the "Assignment"), [], a [] organized and existing under the laws of
[] (the "Assignor"), in consideration of One Dollar (\$1.00) lawful money of the United States of America and other good and
valuable consideration, the receipt of which is hereby acknowledged, has sold, assigned, transferred and set over, and does hereby sell, assign,
transfer and set over unto CITIBANK, N.A., as pari passu collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties
(as defined in the Intercreditor Agreement referred to below) (together with its successors and assigns in such capacity, the "Assignee"), in
accordance with the terms of that certain: (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated,
supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among Pacific Drilling S.A.,
a Luxembourg company organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company"),
as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement
Agent ") and issuing lender; (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented,
refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders
from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"); and (iii) Indenture, dated as of June 3,
2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture")
among the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust
Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the
Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"), pursuant to which the Assignor
has guaranteed the Company's obligations under the Credit Facilities in accordance with the (x) Subsidiary Guaranty as described in the
Revolving Credit Agreement (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guarantee (as defined in the Indenture) (the "Note
Guarantee"), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (the "Term Loan Agreement Guarantee", and, together
with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees"), as security for all of the Pari Passu Obligations (as
defined in the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or
otherwise modified from time to time, the "Intercreditor Agreement"), among the Assignee, the Revolving Credit Agreement Agent, the Term
Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto) under the Pari Passu Documents (as defined in the
Intercreditor Agreement), and unto the Assignee's successors and assigns, to its and its successors' and assigns' own proper use and benefit, in
favor of the Assignee, all the right, title and interest of the Assignor in and to the [Ship Management Agreement] dated as of [, 20] 1
between the Assignor, as "Owner," and [], a [] as vessel manager (the "Approved Manager"), with respect to the
[] flag vessel

Modify appropriately for any sub-management agreements.

[] (the "Collateral Vessel"), as such management agreement may heretofore or hereafter be amended, amended and restated, or extended or renewed from time to time (the "Management Agreement") in accordance with Section 2 hereof. The rights assigned hereby include without limitation, (i) the Assignor's right to receive all moneys due and to become due under the Management Agreement, all claims for damages arising out of the breach thereof and the right of the Assignor to terminate the Management Agreement, to perform thereunder and to compel performance of the terms thereof; and (ii) all claims for other proceeds in respect of the Management Agreement.

It is agreed by the parties hereto as follows:

- 1. Except as otherwise defined herein, terms defined in the Intercreditor Agreement shall have the same meanings when used herein
- "Earnings Account" has the meaning ascribed to it in that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.
- "Lien" shall mean with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.
 - "Permitted Liens" shall mean Liens permitted to exist on the rights assigned hereby by the Pari Passu Documents.
- "Ship Mortgage" means that certain First Preferred Mortgage, dated [] [], 20[] by the Assignor, as Owner in favor of the Assignee, as Pari Passu Collateral Agent, as Mortgagee over the Collateral Vessel, as it may be amended, restated, supplemented or otherwise modified from time to time.
- 2. It is expressly agreed that notwithstanding anything herein contained to the contrary, (i) the Assignor shall remain liable under the Management Agreement to perform all the obligations assumed by it thereunder, (ii) if an Event of Default shall have occurred and be continuing, the obligations of the Assignor under the Management Agreement may be performed by the Assignee or its nominee or other designee without releasing the Assignor therefrom, (iii) the Assignee shall have no obligation or liability under the Management Agreement by reason of, or arising out of, this Assignment and shall not be obligated to perform any of the obligations of the Assignor under the Management Agreement, or to make any payment thereunder or to make any inquiry of the sufficiency of any payment received by it, or to present or file any claim or to take any other action to collect or enforce any payment assigned hereunder, (iv) the Assignee shall not be obligated to bring, appear in or defend any action, suit or proceeding respecting this Assignment or the Management Agreement, and (v) the Assignor shall provide the Assignee with a copy of any amendment to the Management Agreement in due course.

- 3. The Assignor represents and warrants that (i) it shall appoint only the Company or any direct or indirect Restricted Subsidiary (as defined in the Pari Passu Documents) of the Company controlled by the Company or any of its Restricted Subsidiaries as manager of the Vessel and shall give notice of this Assignment, substantially in the form of Exhibit A hereto to the Approved Manager and it shall cause the Approved Manager to provide consent to this Assignment substantially in the form of Exhibit B hereto; (ii) the copy of the Management Agreement delivered to the Assignee together with this Assignment is true, correct and complete, (iii) the Approved Manager has no claims against the Assignor under the Management Agreement as of the date hereof, and (iv) there is not now in effect any assignment or pledge of, and hereby covenants that it will not assign, pledge, or suffer to exist any Lien, charge, security interest, or encumbrance, or any other type of preferential arrangement, upon or with respect to, so long as this Assignment shall remain in effect, the whole or any part of the rights hereby assigned, to anyone other than the Assignee, its successors or assigns, other than Permitted Liens.
- 4 The Assignor does hereby appoint the Assignee as such Assignor's true and lawful attorney, irrevocably, with full power (in the name of such Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for money due and to become due under, or arising out of, the Management Agreement or otherwise assigned hereunder, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings in connection therewith. The Assignee agrees not to exercise its powers as attorney-in-fact unless an Event of Default shall have occurred and be continuing, the Assignee may take or refrain from taking any action hereunder that it believes advisable in its sole discretion. Notwithstanding the power of attorney contained herein, the Assignor shall remain fully liable to perform all of its obligations under the Management Agreement.
- 5. The Assignor further agrees that (i) if the Assignee advises that an Event of Default shall have occurred and be continuing, the Assignee, at the direction of the Controlling Party, shall have the right to terminate the Management Agreement, as the Assignee determines in its sole discretion, upon no fewer than three (3) Business Days prior written notice to the Assignor and the Approved Manager setting forth the effective date of such termination, without such termination giving rise to any claim by the Approved Manager under the Management Agreement or hereunder, other than for services already rendered by the Approved Manager as of the effective date of such termination, (ii) any claim, Lien or security interest arising in favor of the Approved Manager under the Management Agreement against the Collateral Vessel or the Assignor shall be subject and subordinate in all respects to the Lien of the Ship Mortgage and of any other Collateral Agreement in favor of the Assignee, (iii) at the sole option of the Assignee, if the Assignee commences a foreclosure under the Ship Mortgage or enforcement of any other Collateral, the Assignee shall, at the direction of the Controlling Party, have the right to terminate the Management Agreement with respect to such Collateral Vessel and such Lien and divest the Approved Manager and its sub-managers of all right, title and interest in and to, and Liens or claim against, such Collateral Vessel, and (iv) it will advise the Assignee promptly in writing of any outstanding claims that the Approved Manager has against the Collateral Vessel or any other Collateral.

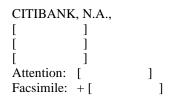
- 6. Notwithstanding anything to the contrary, so long as no Event of Default shall have occurred and be continuing, the Assignor shall be entitled to receive, deposit in the Earnings Account, and retain in accordance with the terms of the Assignment of Earnings any and all moneys otherwise assigned hereunder. If an Event of Default shall have occurred and be continuing, at the request of the Assignee, the Assignor shall specifically authorize and direct the Approved Manager or other obligor to make payment of all of the moneys hereby assigned directly to the Assignee at such place as the Assignee may require, and shall deliver to the Assignee the written acknowledgment of the Approved Manager or other obligor of such instructions.
- 7. The Assignor agrees that at any time and from time to time, upon the written request of the Assignee, the Assignor will promptly and duly execute and deliver any and all such further instruments and documents as the Assignee may reasonably request or as shall be necessary for the Assignee to obtain the full benefits of this Assignment and of the rights and powers herein granted or to perfect the interests assigned to the Assignee hereunder, including, without limitation, the execution and delivery of such notices and Uniform Commercial Code financing and continuation statements and the filing thereof in such jurisdictions as shall be appropriate. To the extent permitted by applicable law, the Assignor hereby authorizes the Assignee to execute and file any such financing or continuation statements without necessity of the signature of the Assignor.
- 8. All moneys collected or received from time to time by the Assignee pursuant to this Assignment shall be applied in accordance with the terms of the Intercreditor Agreement.
- 9. No failure on the part of the Assignee or any other Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Assignment shall in any manner impair or affect other security for the Pari Passu Obligations. The rights and remedies of the Assignee provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.
- 10. This Assignment and all obligations of the Assignor hereunder shall be binding upon the successors and assigns of the Assignor and shall, together with the rights and remedies of the Assignee hereunder, inure to the benefit of the Assignee and its respective successors and assigns.
- 11. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the Assignee will at the request and cost of the Assignor, promptly reassign the Management Agreement and its interest in and all other rights assigned to the Assignee hereunder to the Assignor or as the Assignor shall direct, without any representation, warranty or recourse by or to the Assignee.
- 12. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by

facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); provided, however, that notices and other communications to the Assignee shall not be effective until received by the Assignee. All notices and other communications shall be in writing and addressed to such party at:

(a) in the case of the Assignor:

[]	
[]	
[]	
[]	
Attention:	[]
Facsimile:	+ [1

(b) in the case of the Assignee:



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

13. Governing Law, Jurisdiction and Waivers .

(a) THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE

COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

- (b) ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN PARAGRAPH (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- 14. Invalidity, unenforceability, or invalidation of any one or more of the provisions of this Assignment for any reason shall in no way affect any other provisions hereof, which other provisions shall remain in full force and effect.
- 15. This Assignment, the other Pari Passu Documents and the documents herein and therein mentioned contain, or expressly incorporate, the entire agreement of the parties with respect to the subject matter hereof. This Assignment may not be altered or amended except by an agreement in writing signed by the Assignee and the Assignor.

- 16. This Assignment, the Notice of Assignment of Management Agreement and the Approved Manager's Consent and Undertaking annexed hereto may be executed by each of the Assignee, the Assignor and the Approved Manager in separate counterparts without in any way adversely affecting the validity hereof or of said Notice of Assignment of Management Agreement or said Approved Manager's Consent and Undertaking.
- 17. In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

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Exhibit F Page 8

IN WITNESS WHEREOF, the Assignor has caused this Assignment of Management Agreement to be duly executed as of the day and year first above written.

	[NAME OF ASSIGNOR], as Assignor	
	By: Name: Title:	
Accepted and Agreed:		
CITIBANK, N.A., as the Pari Passu Collateral Agent, as Assignee		
By: Name: Title:		
[Signature Page to Assignment of M	Management Agreement]	

FORM OF NOTICE OF ASSIGNMENT OF MANAGEMENT AGREEMENT

Date: [

, 20]

defined in the Assignment (defined below).

Го: [
The undersigned refers to the [Ship Management Agreement dated as of , 20], (the "Management Agreement"), made between the
undersigned (the "Assignor") and [] (the "Approved Manager"), by which the undersigned agreed to hire you as [commercial
and] technical manager for, and you agreed to provide [commercial and] technical management of, the [] (the "Collateral Vessel
") for the period and on the terms and conditions set out in the Management Agreement. Reference is also made to that certain (i) Credit
Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated, supplemented, refinanced, replaced or otherwise
modified from time to time, the "Revolving Credit Agreement"), among Pacific Drilling S.A., a Luxembourg company organized under the
form of a société anonyme (together with its successors and permitted assigns, the "Company"), as borrower, various lenders from time to time
party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement Agent") and issuing lender; (ii) Term Loan
Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from

time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"); and (iii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture") among the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"), the related Guarantees and the other Pari Passu Collateral Documents (as each is

We hereby give you notice of the following, and you by your execution and delivery of the Approved Manager's Consent and Undertaking hereby agree to the following:

1. By an assignment dated as of the date hereof (the "Assignment"; the defined terms used herein and not otherwise defined shall be used herein as therein defined), to which this notice is attached, made between us and the Assignee referred to therein, we have sold, assigned, transferred and set over unto the Assignee, as security for all of the Pari Passu Obligations under the Pari Passu Documents, all our right, title and interest in and to the Management Agreement and in and to all moneys and claims for moneys due and to become due to us thereunder (all as more fully described in the Assignment).

- 2. You are hereby irrevocably authorized and instructed that if the Assignee advises that an Event of Default shall have occurred and be continuing, upon your receipt of written notice from the Assignee, to pay all moneys payable by you under the Management Agreement to such place as the Assignee may from time to time direct.
- 3. The undersigned shall remain liable to perform all its obligations under the Management Agreement, and the Assignee shall not be under any obligation under the Management Agreement, but should the Assignee exercise its right to perform, or cause performance by its nominee or designee of, any of our obligations under the Management Agreement, you agree, without thereby releasing the undersigned from our obligations under the Management Agreement, to accept such performance.
- 4. You consent to the Assignment, and agree if the Assignee advises that an Event of Default shall have occurred and be continuing that, upon receipt of written notice from the Assignee, you will make payment of all moneys due and to become due under the Management Agreement, as the Assignee shall direct in its sole discretion, without setoff or deduction for any claim not arising under the Management Agreement or any other management agreement entered into with you in relation to the Collateral Vessel (the "Managed Vessel"), direct to such account specified by the Assignee at such address as the Assignee shall request in writing until receipt of written notice from the Assignee that all obligations of the Assignor to it have been paid in full. You agree that you shall not seek the recovery of any payment actually made by you to the Assignee pursuant to the Approved Manager's Consent and Undertaking once such payment has been made. You hereby waive the right to assert against the Assignee, as assignee of the Assignor, any claim, defense, counterclaim or setoff other than a claim, defense, counterclaim or set-off that you could assert against the Assignor under the Management Agreement or any other management agreement entered into with you in relation to any of the Managed Vessel. This provision shall not be construed to relieve the Assignor of any liability to the Approved Manager.
- 5. You agree if the Assignee advises that an Event of Default shall have occurred and be continuing that the Assignee shall be entitled to exercise any and all rights and remedies of the Assignor under the Management Agreement in accordance with the terms of the Assignment and you shall comply in all respects with such exercise. You agree that any claim, Lien or security interest that you may have against the Collateral Vessel or Assignor shall be subject and subordinate in all respects to the Lien of the Ship Mortgage on such Collateral Vessel or other Collateral in favor of the Assignee, and, at the option of the Assignee, foreclosure under the Ship Mortgage or enforcement of other Collateral shall terminate the Management Agreement and such Liens and divest you and your sub-managers of all right, title and interest in and to the Collateral Vessel. You agree that each sub-management agreement respecting the Collateral Vessel made between you and any Affiliate (as defined in the Intercreditor Agreement) of the undersigned shall be explicitly made subordinate in all respects to the Lien of the Ship Mortgage.

By your Approved Manager's Consent and Undertaking, you further agree that if the Assignee advises that an Event of Default shall have occurred and be continuing, the

Assignee shall have the right to terminate the Management Agreement, as the Assignee determines in its sole discretion, upon no fewer than three (3) Business Days prior written notice to the Assignor and to you as the Approved Manager setting forth the effective date of such termination, without such termination giving rise to any claim by you as Approved Manager, other than for services already rendered by you as Approved Manager as of the effective date of such termination.

- 6. You covenant and agree with the Assignee that you will (x) clearly record on your books and records notations of the Assignment, and (y) provide the Assignee with a copy of any amendment to the Management Agreement in due course.
- 7. Your Approved Manager's Consent and Undertaking, and your agreements therein contained, are for the benefit of the Assignee and shall be enforceable by the Assignee.
- 8. This Notice of Assignment of Management Agreement shall terminate, and be of no further force and effect, upon the termination of the Assignment (as notified to you by the Assignee).

The authorizations and instructions by us in this Notice of Assignment of Management Agreement cannot be revoked or varied by us without the Assignee's prior written consent.

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[NAME OF ASSIGNOR], as Assignor
Ву:
Name:
Title:

FORM OF APPROVED MANAGER'S CONSENT AND UNDERTAKING

Date: [

, 20]

To: CITIBANK, N.A., as Pari Passu Collateral Agent

We refer to (a) the [Ship Management Agreement dated as of , 20] (the "Management Agreement"), between us, []
(the "Approved Manager"), and [] (the "Assignor"), and (b) the Assignment of Management Agreement dated as of [,
20] (the "Assignment"), made between the Assignor and CITIBANK, N.A., as the Pari Passu Collateral Agent for the Pari Passu Secured	l
Parties (the "Assignee") under the Intercreditor Agreement. Capitalized terms used herein and not otherwise defined herein are used as defin	ned
in, or by reference in, the Assignment.	

In consideration of your agreeing to the execution and delivery of the Management Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, we hereby agree with you as follows:

- 1. We agree to the terms set out in the Assignment, and consent to, and agree to be bound by, such Assignment. Without limitation, we agree that if you as Assignee notify us that an Event of Default shall have occurred and be continuing, we will accept performance of the Management Agreement (solely at your option) from you or your nominee or designee, as long as such performance is made in accordance with the terms of the Management Agreement.
- 2. If the Assignee shall advise us that an Event of Default shall have occurred and be continuing, we covenant and agree with the Assignee that the Assignee shall have the right to terminate the Management Agreement, as the Assignee determines in its sole discretion, upon not fewer than three (3) Business Days prior written notice to the Assignor and to us setting forth the effective date of such termination, without such termination giving rise to any claim by us as Approved Manager, other than for services already rendered by us as Approved Manager as of the effective date of such termination.
- 3. We agree that any claim, Lien or security interest arising in our favor under the Management Agreement against the Collateral Vessel or the Assignor is subject and subordinate in all respects to the Lien of the Ship Mortgage and of any other Collateral Agreement in favor of the Assignee, and, at the sole option of the Assignee, foreclosure under the Ship Mortgage or enforcement of any other Collateral shall terminate the Management Agreement with respect to the Collateral Vessel and such Liens in our favor and divest us and our submanagers of all right, title and interest in and to the Collateral Vessel. We agree that we will not commence arrest proceedings against the Collateral Vessel.

Exhibit B-1

- 4. We will not enter into any sub-management agreement or contract out our obligations under any sub-management agreement to any person in such manner that relieves us of our obligations under the Management Agreement without assigning our rights under such sub-management agreement to the Assignee, such assignment to be substantially in the form of the Assignment of Management Agreement together with Notice and Approved Manager's Undertaking (provided, the provisions described in paragraphs 2 and 3 above shall not be included in any assignment of sub-management agreement or notice or manager's undertaking relating thereto unless the sub-manager is an Affiliate of the Assignor).
- 5. We agree that (i) we will not commence any arbitration, suit or other proceeding against the Assignor under the Management Agreement without the prior written consent of the Assignee, which consent may be withheld in the Assignee's sole discretion, and (ii) if the Assignee notifies us that an Event of Default has occurred and is continuing, we will discontinue any such arbitration, suit or other proceeding.

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Exhibit B-2

For and on behalf of			
[], as Approved Manager		
Ву: _			
N	ame:		
T	itle:		

Exhibit B-3

FORM OF ASSIGNMENT OF BAREBOAT CHARTER (INTERNAL CHARTER)

[NAME OF COLLATERAL VESSEL]

By this Assignment of Bareboat Charter, dated as of [] [], 20[] (as amended, amended and restated, supplemented or otherwise
modified from time to time, the "Assignment"), the undersigned [], a [] organized and existing under the laws of
[] (the "Assignor"), in consideration of One Dollar (\$1.00) lawful money of the United States of America and other good and
valuable consideration, the receipt of which is hereby acknowledged, has sold, assigned, transferred and set over, and does hereby sell, assign,
transfer and set over unto CITIBANK, N.A., as pari passu collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties
(as defined in the Intercreditor Agreement referred to below) (together with its successors and assigns in such capacity, the "Assignee"), in
accordance with the terms of that certain: (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated,
supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among Pacific Drilling S.A.,
a Luxembourg company organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company"),
as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement
Agent") and issuing lender; (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented,
refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders
from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"); and (iii) Indenture, dated as of June 3,
2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture")
among the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust
Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the
Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"), pursuant to which the Assignor
has guaranteed the Company's obligations under the Credit Facilities in accordance with the (x) Subsidiary Guaranty as described in the
Revolving Credit Agreement (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guarantee (as defined in the Indenture) (the "Note
Guarantee"), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (the "Term Loan Agreement Guarantee", and, together
with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees"), as security for all of the Pari Passu Obligations (as
defined in the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or
otherwise modified from time to time, the "Intercreditor Agreement"), among the Assignee, the Revolving Credit Agreement Agent, the Term
Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto) under the Pari Passu Documents (as defined in the
Intercreditor Agreement), and unto the Assignee's successors and assigns, to its and its successors' and assigns' own proper use and benefit, and
does hereby grant to the Assignee a security interest in all the right, title interest, claim and demand of the Assignor in and to:
(i) that certain [Bareboat Charter], dated as of [] [], 20[] (as may be amended, extended, renewed or otherwise modified
from time to time, the "Charter"),
, , , , , , , , , , , , , , , , , , ,

between the Assignor and [], a [] organized and existing under	er the laws of [], (the "Charterer"), with
respect to the Assignor's [] flag vessel [] (Official No. []) (the " Collateral V	<u>'essel</u> "), including, without
limitation, within such assignmen	t, the right to receive a	all moneys due and to become	due under the Charter	and all rights arising out of the
owner's lien on cargoes and subfr	eights thereunder, all o	claims for damages arising out	of the breach thereof	and the right of the Assignor to
terminate the Charter, to perform	thereunder and to com	pel performance of the terms t	thereof;	

- (ii) all moneys and claims for moneys due and to become due to the Assignor, and all claims for damages and all insurance and other proceeds in respect of, the actual or constructive loss of, or the requisition (whether of title or use), condemnation, sequestration, seizure, forfeiture or other taking of, the Collateral Vessel; and
- (iii) any proceeds of any of the foregoing and all interest and earnings from the investment of any of the foregoing and the proceeds thereof.

Capitalized terms used herein and not otherwise defined are used herein as defined in the Intercreditor Agreement.

For purposes of this Assignment "<u>Earnings Account</u>" has the meaning ascribed to it in that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.

It is expressly agreed that anything herein contained to the contrary notwithstanding, (i) the Assignor shall remain liable under the Charter to perform all the obligations assumed by it thereunder, (ii) if an Event of Default shall have occurred and be continuing, the obligations of the Assignor under the Charter may be performed by the Assignee or its nominee or other assignee from the Assignee without releasing the Assignor therefrom, and (iii) the Assignee shall have no obligation or liability under the Charter by reason of, or arising out of, this Assignment and shall not be obligated to perform any of the obligations of the Assignor under the Charter, or to make any payment or any inquiry of the sufficiency of any payment received by it, or to present or file any claim or to take any other action to collect or enforce any payment assigned hereunder. The Assignor shall provide the Assignee with a copy of any amendment to the Charter in due course.

The Assignor does hereby constitute the Assignee as the Assignor's true and lawful attorney-in-fact, irrevocably, with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for money due and to become due under, or arising out of, the Charter or otherwise assigned hereunder, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings in connection therewith. The Assignee agrees to take any action permitted in the preceding sentence only if an Event of Default shall have occurred and be continuing.

Notwithstanding anything to the contrary, so long as no Event of Default shall have occurred and be continuing, the Assignor shall be entitled to receive into the Earnings Account and retain therein any and all moneys otherwise assigned hereunder. If an Event of Default shall have occurred and be continuing, at the request of the Assignee, the Assignor shall specifically authorize and direct the Charterer or other obligor to make payment of all of the moneys hereby assigned directly to the Assignee in accordance with instructions of the Assignee, and shall deliver to the Assignee the written acknowledgment of the Charterer or obligor of such instructions.

The Assignor hereby irrevocably authorizes the Assignee, at such Assignor's expense, to file, at any time and from time to time, such financing and continuation statements or papers of similar purpose or effect relating to this Assignment, without such Assignor's signature, as the Assignee at its option may deem appropriate, and hereby appoints the Assignee as such Assignor's attorney-in-fact to execute any such statement in such Assignor's name and to perform all other acts which the Assignee may deem appropriate to perfect and continue the security interests conferred hereby; provided, however, such right and assignment of power shall not constitute a duty of the Assignee, and the Assignor shall have the duty to file all necessary financing and continuation statements to perfect the security interest granted herein.

The Assignor does hereby represent and warrant that, to the best of its knowledge, the Charterer has no claims against the Assignor under the Charter as of the date hereof. The Assignor does hereby further represent and warrant that there is not now in effect any assignment or pledge of, and hereby covenants that the Assignor will not, so long as this instrument of Assignment shall remain in effect, assign, pledge, or suffer to exist any lien, charge, security interest, or encumbrance, or any other type of preferential arrangement, upon or with respect to the whole or any part of the rights hereby assigned, to anyone other than the Assignee, its successors or assigns.

Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the Assignee will at the request and cost of the Assignor, reassign the Charter and its interest in and all other rights assigned to the Assignee hereunder to the Assignor or as the Assignor shall direct, without any representation, warranty or recourse by or to the Assignee.

All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); provided, however, that notices and other communications to the Assignee shall not be effective until received by the Assignee. All notices and other communications shall be in writing and addressed to such party at:

(a) in the case of the Assignor:

 (b) in the case of the Assignee:

CITIBANK	ζ, N.A.,	
[]	
[]	
[]	
Attention:	[]
Facsimile:	+ [

or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES SET FORTH HEREIN, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY

OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN THE IMMEDIATELY PRECEDING PARAGRAPH AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Invalidity, unenforceability, or invalidation of any one or more of the provisions of this Assignment for any reason shall in no way affect any other provisions hereof, which other provisions shall remain in full force and effect.

This Assignment, the other Pari Passu Documents and the documents herein and therein mentioned contain, or expressly incorporate, the entire agreement of the parties with respect to the subject matter hereof. This Assignment may not be altered or amended except by an agreement in writing signed by the Assignee and the Assignor.

This Assignment and the Agreement and Consent to Assignment annexed hereto may be executed by the Assignee, the Assignor and the Charterer under the Charter in separate counterparts without in any way adversely affecting the validity of said Agreement and Consent to Assignment. [Prior to or simultaneously with entering into the Charter, the Assignor has caused the Charterer to execute and deliver to the Assignee such Agreement and Consent to Assignment.] ¹

In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

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This sentence to be inserted only in Assignments related to Charters executed after the Closing Date.

IN WITNESS WHEREOF, the Assignor has caused this instrument of Assignment to be duly executed as of the day and year first above written.

	[NAME OF ASSIGNOR], as Assignor	
	By:	
	Name:	
	Title:	
The terms and conditions of this Assignment are hereby		
ACCEPTED BY:		
CITIBANK, N.A., as the Pari Passu Collateral Agent, as Assignee		
By:		
Name:		
Title:		
[Signature Page to A	ssignment of Bareboat Charter (Internal Charter)	

FORM OF NOTICE OF ASSIGNMENT OF BAREBOAT CHARTER

and

FORM OF AGREEMENT AND CONSENT TO ASSIGNMENT

Dated: [

, 20]

To: [Charterer]	
Re: [Collateral Vessel]	
We refer to the Bareboat Charter, dated as of [] [], 20[] (the " <u>Charter</u> "), made between us, [], (the " <u>Assignor</u> " or " <u>w</u> "), and you, [Charterer] (the " <u>Charterer</u> " or " <u>you</u> "), by which we agree to let, and you agree to take on charter the [] flag vessel [] (the " <u>Collateral Vessel</u> ") for the period and on the terms and conditions set out in the Charter.	2

We hereby give you notice of the following, and you by your execution and delivery of this Agreement and Consent to Assignment (this "Consent") hereby agree to the following:

- 1. By an assignment (the "Assignment", the defined terms therein being used herein and not otherwise defined shall be used herein as therein defined), dated as of [] [], 20[], (a copy of which is attached hereto) made between us and the Assignee referred to therein, we have sold, assigned, transferred and set over unto the Assignee all our right, title and interest in and to the Charter and in and to moneys and claims for moneys due and to become due to us under the Charter (all as more fully described in the Assignment).
- 2. You are hereby irrevocably authorized and instructed to make all payments due by you in accordance with the terms of the Charter to [insert Earnings Account instructions].
- 3. Upon your receipt of written notice of the occurrence of an Event of Default from the Assignee, you are hereby irrevocably authorized and instructed to pay, and agree that you will make payment of, all such moneys payable by you under the Charter to such place as the Assignee may from time to time direct.
- 4. We shall remain liable to perform all our obligations under the Charter and the Assignee shall not be under any obligation under the Charter, but should the Assignee exercise its right to perform, or cause performance by its nominee or designee of, our obligations under the Charter, you agree, without thereby releasing us from our obligations under the Charter, to accept such performance.

- 5. You consent to the Assignment, and agree that you will make payment of all moneys due and to become due under the Charter, without setoff or deduction for any claim not arising under the Charter, direct to the account set forth in paragraph 2 hereof, and otherwise if the Assignee has given you a written notice of the occurrence of an Event of Default, to such account specified by the Assignee at such address as the Assignee shall request the undersigned in writing, in each case until receipt of written notice from the Assignee that all obligations of the Assignor to it have been paid in full. You agree that you shall not seek the recovery of any payment actually made by you to the Assignee pursuant to this Charterer's Consent and Agreement once such payment has been made. You hereby waive the right to assert against the Assignee, as assignee of the Assignor, any claim, defense, counterclaim or setoff other than a claim, defense, counterclaim or setoff that you could assert against the Assignor under the Charter. These provisions shall not be construed to relieve the Assignor of any liability to the Charterer.
- 6. You agree that if the Assignee gives you written notice that an Event of Default has occurred and is continuing, the Assignee shall be entitled to exercise any and all rights and remedies of the Assignor under the Charter in accordance with the terms of the Assignment, and you shall comply in all respects with such exercise.
- 7. You agree that you will not, until the termination of the Assignment, acknowledge and consent to any other assignment by us of any of the whole or any part of our right, title and interest in and to the Charter and in and to moneys and claims for moneys due and to become due to us under the Charter without the written consent of the Assignee.
- 8. You may rely on any written notice given by the Assignee to you as being properly given under the terms of the Assignment and this Consent, even if we notify you that such written notice is not validly given.
- 9. You covenant and agree with the Assignee that you will (i) clearly record on your books and records notations of the Assignment, and (ii) provide the Assignee with a copy of any amendment to the Charter in due course.
- 10. Your acknowledgement and consent hereunder, and your agreements herein contained, are for the benefit of the Assignee and shall be enforceable by the Assignee.
- 11. This Consent shall terminate, and be of no further force and effect, at the earlier of the termination of (i) the Assignment (as notified to you by the Assignee) or (ii) the Charter.

The authorizations and instructions by us in this Consent cannot be revoked or varied by us without the Assignee's prior written consent.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

For and on behalf of	
[ASSIGNOR]	
By: Name: Title:	
Dated:	

Dated:	, 20
To: [Assignor]	
To: CITIBANK	, N.A., as the Pari Passu Collateral Agent and as Assignee
	eration of the Charter, and for other good and valuable consideration, the receipt of which is hereby acknowledged, we hereby the terms set out above and hereby consent to, and agree to be bound by, the foregoing Agreement and Consent to Assignment.
howsoever have is sul limited to, enforceme arising fro prohibited favor of th	nefit of the Assignee, the Charterer irrevocably waives and disclaims any lien that it may have on the Collateral Vessel, it and whensoever arising, and irrevocably agrees that any claim against the Collateral Vessel that the Charterer may or could be and subordinate always to the claims of the Assignee and the Lenders under any Collateral Agreement including, but not the Mortgagee under the Ship Mortgage (as defined below) on the Collateral Vessel, provided further that the creation or ent by the Charterer of any maritime lien (other than Liens permitted under a Pari Passu Document) on the Collateral Vessel on or related to the Charter (or any other sub-charter or similar contract of or related to the Collateral Vessel) is expressly in the Assignee, as Pari Passu Collateral Agent, as Mortgagee over the Collateral Vessel, as it may be amended, restated, and or otherwise modified from time to time.
	signed confirms that the Charter has been duly executed by it and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms.
For and or	n behalf of
[CHARTE	ERER]

Exhibit A-4

Name: Title:

EXHIBIT H

FORM OF U.S. PLEDGE AND SECURITY AGREEMENT

MADE BY

 $[N \ \mathsf{AME} \ \mathsf{OF} \ E \ \mathsf{ACH} \ G \ \mathsf{RANTOR} \]$

AND

 \boldsymbol{E} ach of the other \boldsymbol{G} rantors (as defined herein)

IN FAVOR OF

 $C \ \mbox{itibank} \ , \ N.A.,$ as the P ari P assu C ollateral $A \ \mbox{gent}$

D ATED AS OF J UNE 3, 2013

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EXHIBITS:

Exhibit A U.S. Pledge and Security Supplement

This U.S. PLEDGE AND SECURITY AGREEMENT dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into by each of the undersigned grantors (each, a "Grantor" and, together with any other entity that becomes a grantor hereunder pursuant to Section 8.01 hereof, collectively, the "Grantors") in favor of CITIBANK, N.A. ("Citibank"), in its capacity as Pari Passu Collateral Agent (together with any successor pari passu collateral agent, the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties (as such term is defined in the Intercreditor Agreement referred to below).

RECITALS

- A. Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (the "Company"), has entered into a Credit Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Revolving Credit Agreement"), with the lenders from time to time party thereto, the Issuing Lenders (as defined therein) and Citibank, as administrative agent (the "Revolving Credit Agreement Agent"), providing for the making of loans to the Company and the issuance of letters of credit for the account of the Company or any Restricted Subsidiary (as defined therein) of the Company in the aggregate principal amount of \$500,000,000.
- B. The Company or any Restricted Subsidiary of the Company has entered into, or may at any time and from time to time after the date hereof enter into, (i) one or more Interest Rate Protection Agreements (as defined in the Revolving Credit Agreement) and/or Other Hedging Agreements (as defined in the Revolving Credit Agreement) with one or more Other Creditors (as defined in the Revolving Credit Agreement) (with each such Interest Rate Protection Agreement and/or Other Hedging Agreement with an Other Creditor being herein called a "Secured Hedging Agreement") or (ii) one or more Secured Cash Management Agreements (as defined in the Revolving Credit Agreement).
- C. The Company has entered into a Term Loan Credit Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "<u>Term Loan Agreement</u>"), with the lenders from time to time party thereto and Citibank, as administrative agent (the "<u>Term Loan Agent</u>"), providing for the making of term loans to the Company in the aggregate principal amount of \$750,000,000. In accordance with the terms of the Term Loan Agreement, the Company may incur additional term loans thereunder in an aggregate principal amount such that the sum of all Notes Obligations, plus the aggregate amount of all Pari Passu Obligations (other than the Revolving Credit Agreement Obligations) does not exceed \$1,700,000,000.
- D. The Company has entered into an Indenture dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Indenture") with the subsidiary guarantors party thereto from time to time and Deutsche Bank Trust Company Americas, as trustee (the "Trustee"), pursuant to which the Company will issue its 5.375% Senior Secured Notes due 2020 in an initial aggregate principal amount of \$750,000,000 (the "Initial Notes"). In accordance with the terms of the Indenture, the Company may issue additional senior secured notes thereunder in an additional principal amount of up to \$100,000,000 (such additional notes, together with the Initial Notes, the "Notes").

- E. It is a requirement of the Revolving Credit Agreement, the Secured Hedging Agreements, the Secured Cash Management Agreements, the Term Loan Agreement and the Indenture that the Grantors enter into this Agreement in order to grant to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, a security interest in the Collateral (as hereinafter defined).
- F. Each Grantor will receive substantial, direct and indirect, benefits from the extension of credit to the Company under the Revolving Credit Agreement, the Term Loan Agreement and the Indenture.
- G. NOW, THEREFORE, in consideration of the premises and the mutual agreements herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I Definitions

Section 1.01 <u>Definitions</u>.

- (a) Unless otherwise defined herein, capitalized terms defined in the Intercreditor Agreement and used herein have the meanings given to them in the Intercreditor Agreement, and all terms which are defined in Article 8 or 9 of the UCC (as hereinafter defined) are used herein as so defined. The parties intend that the terms used herein which are defined in the UCC have, at all times, the broadest and most inclusive meanings possible. Accordingly, if the UCC shall in the future be amended or held by a court to define any term used herein more broadly or inclusively than the UCC in effect on the date hereof, then such term, as used herein, shall be given such broadened meaning. If the UCC shall in the future be amended or held by a court to define any term used herein more narrowly, or less inclusively, than the UCC in effect on the date hereof, such amendment or holding shall be disregarded in defining terms used herein.
 - (b) The following terms have the following meanings:
 - "Collateral" has the meaning assigned such term in Section 2.01.
- "Copyrights" means the collective reference to (a) all copyrights arising under the laws of the United States, any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished, all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Copyright Office, and (b) the right to obtain all renewals thereof.
- "Copyright Licenses" means any written agreement naming any Grantor as licensor or licensee, granting any right under any Copyright, including the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.
- "<u>Drilling Contract</u>" shall mean any charterparty, pool agreement or drilling contract in respect of any Vessel or other contract for use of any Vessel.

- "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Company or any of its Subsidiaries as a consequence of the operation of any Vessel, including without limitation payments of any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Company or any of its Subsidiaries as a consequence of the operation of any Vessel; (iii) compensation payable to the Company or any of its Subsidiaries in the event of any requisition of any Vessel; (iv) remuneration for salvage, towage and other services performed by any Vessel and payable to the Company or any of its Subsidiaries; (v) demurrage and retention money receivable by the Company or any of its Subsidiaries in relation to any Vessel; (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings; (vii) if and whenever any Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to any Vessel; and (viii) other money whatsoever due or to become due to any of the Company or any of its Subsidiaries in relation to the operation of any Vessel.
- "Earnings Accounts" shall mean, collectively, all Deposit Accounts and/or Security Accounts into which any Earnings are directly deposited (other than Earnings payable to or for the account of a Local Content Subsidiary).
- "Excluded Collateral" means the following, whether now owned or at any time hereafter acquired by any Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest and whether now existing or hereafter coming into existence: (i) all Drilling Contracts, (ii) Equipment and Inventory, (iii) any General Intangibles, governmental approvals or other rights arising under any contracts, instruments, permits, licenses or other documents, if (but only to the extent that) the grant of a security interest therein would constitute a breach of a valid and enforceable restriction on the granting of a security interest therein or assignment thereof in favor of a third party (other than (A) to the extent that any such restriction or prohibition would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) or any other applicable law (including Bankruptcy Law) or principles of equity or (B) to the extent that the other party has consented to the granting of a security interest therein or assignment thereof pursuant to the terms hereof or pursuant to a grant or assignment for security purposes generally), (iv) all Deposit Accounts other than the Earnings Accounts, (v) cash and Cash Equivalents (as defined in the Revolving Credit Agreement) securing letters of credit, bank guarantees or similar instruments to the extent any lien thereon constitutes a Lien permitted under the Pari Passu Documents, and (vi) any and all Proceeds of any of the Excluded Collateral to the extent constituting Excluded Collateral described in clauses (i) through (v) above (other than Proceeds of a Drilling Contract assigned pursuant to an Assignment of Insurance Proceeds).
 - "Foreign Security Documents" has the meaning assigned such term in Section 8.15(c).
- "Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including the Copyrights, the Copyright Licenses, the Patents, the Patents Licenses, the Trademarks and the Trademark Licenses, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

- "Intercreditor Agreement" means that certain Intercreditor Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time) by and among the Company, each other Grantor (as defined therein), Citibank, as Pari Passu Collateral Agent, Revolving Credit Agreement Agent and Term Loan Agent, Deutsche Bank Trust Company Americas, as Trustee, and each other party from time to time party thereto.
- "<u>Lien</u>" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, and any lease having substantially the same effect as any of the foregoing).
- "Local Content Subsidiary" shall mean any Subsidiary of the Company that is a party to a Drilling Contract or otherwise holds the right to receive Earnings attributable to a Vessel for the purpose of satisfying any local content law or regulation or similar law or regulation.
- "Patent License" means all agreements, whether written or oral, providing for the grant by or to any Grantor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent.
- "Patents" means the collective reference to (a) all letters patent of the United States, any other country or any political subdivision thereof, all reissues and extensions thereof and all goodwill associated therewith, (b) all applications for letters patent of the United States or any other country and all divisions, continuations and continuations-in-part thereof, and (c) all rights to obtain any reissues or extensions of the foregoing.
- "Pledged Collateral" means all Instruments, Pledged Securities and other Investment Property owned by any Grantor, whether or not physically delivered to the Pari Passu Collateral Agent pursuant to this Agreement.
- "Pledged Securities" shall mean, collectively, with respect to each Grantor, (i) all issued and outstanding Capital Stock (as defined in the Revolving Credit Agreement) owned by such Grantor (which Capital Stock owned as of the date hereof is set forth on Schedule 5.02A) all warrants, options or other rights to acquire Capital Stock and additional Capital Stock of whatever class of any such issuer acquired by such Grantor (including by issuance), together with all rights, privileges, authority and powers of such Grantor relating to such Capital Stock in each such issuer or under any organizational document of each such issuer, and the certificates, instruments and agreements representing such Capital Stock and any and all interest of such Grantor in the entries on the books of any financial intermediary pertaining to such Capital Stock, (ii) all Capital Stock of any issuer, which Capital Stock is hereafter acquired by such Grantor (including by issuance) and all warrants, options or other rights to acquire Capital Stock and additional Capital Stock of whatever class of any such issuer acquired by such Grantor (including by issuance), together with all rights, privileges, authority and powers of such Grantor

relating to such Capital Stock or under any organizational document of any such issuer, and the certificates, instruments and agreements representing such Capital Stock and any and all interest of such Grantor in the entries on the books of any financial intermediary pertaining to such Capital Stock, from time to time acquired by such Grantor in any manner, and (iii) all Capital Stock issued in respect of the Capital Stock referred to in clause (i) or (ii) upon any consolidation or merger of any issuer of such Capital Stock.

- "Secured Obligations" means the Pari Passu Obligations. It is acknowledged and agreed that the "Secured Obligations" shall not include any Excluded Swap Obligations (as defined in the Revolving Credit Agreement).
- "Subsidiary" shall mean, as to any Person, (i) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person and/or one or more Subsidiaries of such Person and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has more than a 50% equity interest at the time.
- "<u>Trademark License</u>" means any agreement, whether written or oral, providing for the grant by or to any Grantor of any right to use any Trademark.
- "Trademarks" means (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof, or otherwise, and all common-law rights related thereto, and (b) the right to obtain all renewals thereof.
- "<u>UCC</u>" means the Uniform Commercial Code as from time to time in effect in the State of New York; *provided*, *however*, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Pari Passu Collateral Agent's or any other Pari Passu Secured Party's security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection, the effect thereof or priority and for purposes of definitions related to such provisions.

Section 1.02 <u>Other Definitional Provisions</u>. Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, refer to such Grantor's Collateral or relevant part thereof.

Section 1.03 <u>Rules of Interpretation</u>. Unless the context otherwise requires, (i) the term "or" is not exclusive, (ii) words in the singular include the plural, and in the plural include

the singular, (iii) "will" shall be interpreted to express a command, (iv) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (v) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (vi) all references herein to Articles and Sections shall be construed to refer to Articles and Sections of this Agreement unless otherwise stated.

ARTICLE II Grant of Security Interest

Section 2.01 <u>Grant of Security Interest</u>. Each Grantor hereby pledges, assigns and transfers to the Pari Passu Collateral Agent, and hereby grants to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, a continuing security interest in and to all of such Grantor's right, title and interest in and to all of the following personal property, whether now owned or existing or hereafter acquired or arising and regardless of where located (the "<u>Collateral</u>"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations, whether now existing or hereafter incurred or arising:

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all Documents;
- (iv) all General Intangibles, including all Intellectual Property;
- (v) all Goods:
- (vi) all Earnings and all Earnings Accounts, including all Deposit Accounts (including all cash and other items deposited therein or credited thereto) and Securities Accounts (including all Securities Entitlements related thereto), in each case that are Earnings Accounts;
- (vii) all Letter of Credit Rights and Supporting Obligations;
- (viii) all Pledged Collateral;
- (ix) all Commercial Tort Claims specifically described on Schedule 3.02 (as such schedule may be updated from time to time in accordance with Section 4.03);
- (x) all books and Records relating to the foregoing:
- (xi) to the extent not otherwise described above, all Proceeds, products, accessions, rents and profits of, or in respect of, any and all of the foregoing and all collateral security and guarantees given by any Person to or in favor of any Grantor with respect to any of the foregoing;

provided, that notwithstanding anything to the contrary contained in this Section 2.01, the security interest created by this Agreement shall not extend to, and the term "Collateral" shall not include, any Excluded Collateral.

Each Grantor hereby irrevocably authorizes the Pari Passu Collateral Agent at any time and from time to time to file in any relevant jurisdiction any initial financing statements with respect to the Collateral or any part thereof and amendments thereto that (i) indicate the Collateral as all assets of such Grantor or words of similar effect as being of an equal or lesser scope or with greater detail or by any other description which reasonably approximates the description contained in this Agreement, and (ii) contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and any organizational identification number issued to such Grantor. Each Grantor agrees to provide such information to the Pari Passu Collateral Agent promptly upon request. Each Grantor also ratifies its authorization for the Pari Passu Collateral Agent to file in any relevant jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

Section 2.02 <u>Grantors Remain Liable</u>. Notwithstanding anything to the contrary contained herein, (i) each Grantor shall remain liable for all obligations under and in respect of the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Pari Passu Collateral Agent or any other Pari Passu Secured Party, (ii) each Grantor shall remain liable under each of the agreements included in the Collateral, including any Accounts, Chattel Paper or Payment Intangibles, to perform all of the obligations undertaken by it thereunder all in accordance with and pursuant to the terms and provisions thereof, and neither the Pari Passu Collateral Agent nor any other Pari Passu Secured Party shall have any obligation or liability under any of such agreements by reason of or arising out of this Agreement or any other document related hereto nor shall the Pari Passu Collateral Agent nor any other Pari Passu Secured Party have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any agreement included in the Collateral, including any agreements relating to any Accounts, Chattel Paper or Payment Intangibles, and (iii) the exercise by the Pari Passu Collateral Agent of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral, including any agreements relating to any Accounts, Chattel Paper or Payment Intangibles.

ARTICLE III Representations and Warranties

Each Grantor hereby represents and warrants to the Pari Passu Collateral Agent and each other Pari Passu Secured Party as follows:

Section 3.01 <u>Grantor Information</u>. On the date hereof, the correct legal name of such Grantor, all names and trade names that such Grantor has used in the last five years, such Grantor's jurisdiction of organization and each jurisdiction of organization of such Grantor over the last five years, organizational number (if any), taxpayer identification number (if any), and the location(s) of such Grantor's chief executive office or sole place of business over the last five years are specified on Schedule 3.01.

- Section 3.02 <u>Commercial Tort Claims</u>. Schedule 3.02 specifically describes, as of the date hereof, each Commercial Tort Claim as to which any Grantor has any right, title or interest.
- Section 3.03 <u>Instruments and Chattel Paper</u>. Such Grantor has delivered to the Collateral Agent all Collateral constituting Instruments and Chattel Paper, if any, in each case, having a face amount in excess of \$5,000,000.
- Section 3.04 No Investment Property . On the date hereof, except for Capital Stock owned in any Subsidiary of any Grantor, Cash Equivalents, and Securities Accounts holding Cash Equivalents (and Security Entitlements related to such Securities Accounts), no Grantor owns any Investment Property.
- Section 3.05 <u>Earnings Accounts</u>. Attached hereto as Schedule 3.05 is a list of all locations where any Grantor maintains any Earnings Accounts.

ARTICLE IV Covenants

Each Grantor covenants and agrees with the Pari Passu Collateral Agent, for the benefit of the Pari Passu Secured Parties, that, from and after the date of this Agreement until the Secured Obligations shall have been paid in full in cash:

Section 4.01 Maintenance of Perfected Security Interest; Further Assurances . Each Grantor agrees that:

- (a) to the extent that a security interest in the Collateral may be perfected by the filing of a financing statement or, in the case of an Earnings Account, by control, or, in the case of the Pledged Securities or any Instruments, by the possession thereof, pursuant to the UCC, it shall maintain the security interest created by this Agreement as a perfected first-priority security interest (subject to Liens permitted under the Pari Passu Documents) and shall defend such security interest against the claims and demands of all Persons whomsoever;
- (b) it will furnish to the Pari Passu Collateral Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Pari Passu Collateral Agent may reasonably request, all in reasonable detail;
- (c) to the extent that a security interest in the Collateral is to be perfected by a filing pursuant to the UCC, it will file any required UCC continuation statements from time to time in order to maintain the Pari Passu Collateral Agent's first-priority security interest (subject to Liens permitted under the Pari Passu Documents) in the Collateral; and
- (d) at any time and from time to time, upon the written request of the Pari Passu Collateral Agent, and at the sole expense of such Grantor, it will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Pari Passu Collateral Agent may reasonably deem necessary for the purpose of obtaining or preserving the full benefits of this Agreement to the extent contemplated hereunder and of the rights and powers herein granted, including, without limitation, the delivery of certificated

securities, the filing of any financing or continuation statements under the UCC (or other similar laws in applicable jurisdictions) in effect in any jurisdiction with respect to the security interests created hereby and the entry into applicable Foreign Security Documents.

Section 4.02 <u>Changes in Locations, Name, Etc.</u> Without limitation of any other covenant herein, such Grantor will not cause or permit any change in (a) its legal name, (b) the location of its chief executive office or principal place of business, (c) its identity or corporate structure, (d) its jurisdiction of organization or its organizational identification number in such jurisdiction of organization (if any) or (e) its federal taxpayer identification number (if any), unless, in each case, such Grantor shall have first (i) notified the Pari Passu Collateral Agent of such change, and (ii) taken all action reasonably requested by the Pari Passu Collateral Agent for the purpose of maintaining the perfection and priority of the Pari Passu Collateral Agent's security interests under this Agreement. In any notice furnished pursuant to this Section 4.02, such Grantor will expressly state in a conspicuous manner that the notice is required by this Agreement and contains facts that may require additional filings of financing statements or other notices for the purposes of continuing perfection and maintaining the priority of the Pari Passu Collateral Agent's security interest in the Collateral.

Section 4.03 <u>Commercial Tort Claims</u>. If such Grantor shall obtain an interest in any Commercial Tort Claim as to which it determines that it reasonably expects to recover an amount in excess of \$5,000,000 such Grantor shall, within 30 days of obtaining such interest, execute and deliver documentation acceptable to the Pari Passu Collateral Agent granting and perfecting a security interest under the terms and provisions of this Agreement in and to such Commercial Tort Claim. Immediately upon the Pari Passu Collateral Agent's receipt of such documentation, Schedule 3.02 hereto shall be deemed automatically updated to include the details of such Commercial Tort Claim and such Grantor shall file such financing statements and other filings or registrations in each applicable jurisdiction as may be necessary or advisable in order to perfect the Pari Passu Collateral Agent's security interests and rights in such Commercial Tort Claims.

Section 4.04 <u>Earnings Accounts</u>. For each Earnings Account that any Grantor at any time opens and maintains, such Grantor shall, with respect to any such Deposit Account or Securities Account which is an Earnings Account maintained as of the date hereof, on the date hereof, and with respect to any such Deposit Account or Securities Account which is an Earnings Account opened after the date hereof, on the date such Deposit Account or Securities Account is opened, pursuant to an agreement in form and substance reasonably satisfactory to the Pari Passu Collateral Agent, cause the depository bank or the securities intermediary which maintains such Deposit Account or Securities Account to agree to comply at any time with instructions from the Pari Passu Collateral Agent to such depository bank or securities intermediary directing the disposition of funds from time to time credited to such Deposit Account or Securities Account, without further consent of such Grantor or any other Person. The Pari Passu Collateral Agent agrees with each Grantor that the Pari Passu Collateral Agent shall not give any such instructions or withhold any withdrawal rights from such Grantor unless an Event of Default has occurred and is continuing.

ARTICLE V Pledged Securities; Instruments

Section 5.01 Delivery of the Pledged Securities; Instruments .

- (a) Each Grantor agrees (x) promptly to deliver or cause to be delivered to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, (i) any and all Pledged Securities represented by a certificate and (ii) each promissory note representing indebtedness owned by a Grantor in a principal amount in excess of \$5,000,000, in each case to the extent constituting Collateral owned by it (if any then exist) and (y) to hold in trust for the Pari Passu Collateral Agent upon receipt and promptly thereafter deliver to the Pari Passu Collateral Agent any Pledged Securities and any such promissory notes constituting Collateral received after the date hereof.
- (b) Upon delivery to the Pari Passu Collateral Agent, any Pledged Securities and promissory notes required to be delivered pursuant to the foregoing paragraph (a) of this Section 5.01 shall be accompanied by stock powers, duly executed in blank or other instruments of transfer reasonably satisfactory to the Pari Passu Collateral Agent, and by such other instruments and documents as the Pari Passu Collateral Agent may reasonably request. Each delivery of Pledged Securities or promissory notes shall be accompanied by a schedule describing the securities or instruments, as applicable, which schedule shall be attached hereto as Schedule 5.02A or Schedule 5.02B, as applicable, and made a part hereof; provided that failure to attach any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities or promissory notes. Each schedule so delivered shall supplement any prior schedules so delivered.
- Section 5.02 <u>Representations, Warranties and Covenants Specific to Pledged Collateral and Instruments</u>. Each Grantor represents, warrants and covenants to and with the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, that:
- (a) Schedule 5.02A correctly sets forth the percentage of the issued and outstanding shares of each class of the Capital Stock of the issuer thereof representing such Pledged Securities and includes all Capital Stock required to be delivered pursuant to Section 5.01; and
- (b) Schedule 5.02B correctly sets forth each promissory note representing indebtedness owned by a Grantor in a principal amount in excess of \$5,000,000 and includes all such promissory notes required to be delivered pursuant to Section 5.01 on the date hereof.

Section 5.03 Certification.

(a) To the extent the UCC is applicable, each interest in any limited liability company or limited partnership controlled by any Grantor, pledged hereunder and represented by a certificate, shall be a "security" within the meaning of Article 8 of the UCC as in effect from time to time in the State of New York (for purposes of this Section 5.03, the "New York UCC") and shall be governed by Article 8 of the New York UCC, and each such interest shall at all times hereafter be represented by a certificate.

- (b) To the extent the UCC is applicable, each interest in any limited liability company or limited partnership controlled by a Grantor, pledged hereunder and not represented by a certificate shall not be a "security" within the meaning of Article 8 of the New York UCC and shall not be governed by Article 8 of the New York UCC, and the Grantors shall at no time elect to treat any such interest as a "security" within the meaning of Article 8 of the New York UCC or issue any certificate representing such interest, unless the applicable Grantor provides prior written notification to the Pari Passu Collateral Agent of such election and immediately delivers any such certificate to the Pari Passu Collateral Agent pursuant to the terms hereof.
- (c) To the extent the UCC is applicable, in the event that the interests in any limited liability company or limited partnership not represented by a certificate are pledged by a Grantor hereunder after the date hereof, such Grantor shall simultaneously therewith provide the Pari Passu Collateral Agent with the information required by the applicable jurisdiction for the filing of a financing statement (or an amendment to a financing statement) with respect to the uncertificated interests so pledged (such filing to be made by such Grantor).

Section 5.04 Registration in Nominee Name; Denominations. The Pari Passu Collateral Agent, on behalf of the Pari Passu Secured Parties, shall have the right to hold the Pledged Securities in the name of the applicable Grantor, endorsed or assigned in blank or in favor of the Pari Passu Collateral Agent or, if an Event of Default shall have occurred and be continuing, in its own name as pledgee or the name of its nominee (as pledgee or as sub-agent). Upon the occurrence of an Event of Default, each Grantor will promptly give to the Pari Passu Collateral Agent copies of any notices or other communications received by it with respect to Pledged Securities registered in the name of such Grantor. If an Event of Default shall have occurred and be continuing, the Pari Passu Collateral Agent shall have the right to exchange the certificates representing Pledged Securities held by it for certificates of smaller or larger denominations for any purpose consistent with this Agreement. Each Grantor shall use its commercially reasonable efforts to cause each of its Subsidiaries that is not a party to this Agreement to comply with a request by the Pari Passu Collateral Agent, pursuant to this Section 5.04, to exchange certificates representing Pledged Securities of such Subsidiary for certificates of smaller or larger denominations.

Section 5.05 Voting Rights; Dividends, etc.

- (a) Unless and until an Event of Default shall have occurred and be continuing and the Pari Passu Collateral Agent shall have given notice to the relevant Grantors of the Pari Passu Collateral Agent's intention to exercise its rights hereunder:
 - (i) Each Grantor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof.
 - (ii) The Pari Passu Collateral Agent shall execute and deliver, or cause to be executed and delivered, to each Grantor, all such proxies, powers of attorney and other instruments as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.
 - (iii) Each Grantor shall be entitled to receive and retain any and all dividends and other distributions constituting Collateral paid on or distributed in respect of the Pledged Securities; *provided* that any noncash dividends or other distributions that would constitute Pledged Securities, whether resulting from a subdivision, combination or reclassification of the outstanding Capital Stock of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Collateral.

- (b) Upon the occurrence and during the continuance of an Event of Default and after notice by the Pari Passu Collateral Agent to the relevant Grantors of the Pari Passu Collateral Agent's intention to exercise its rights hereunder, all rights of any Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 5.05, and the obligations of the Pari Passu Collateral Agent under paragraph (a)(ii) of this Section 5.05, shall cease, and all such rights shall thereupon become vested in the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers.
- (c) Any notice given by the Pari Passu Collateral Agent to the Grantors suspending their rights under paragraph (a) of this Section 5.05 (i) may be given by telephone if promptly confirmed in writing, (ii) may be given to one or more of the Grantors at the same or different times and (iii) may suspend the rights of the Grantors under paragraph (a)(i) or paragraph (a)(iii) in part without suspending all such rights (as specified by the Pari Passu Collateral Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Pari Passu Collateral Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

ARTICLE VI Remedial Provisions

Section 6.01 Remedies .

If any Event of Default shall have occurred and be continuing:

(a) The Pari Passu Collateral Agent shall have the right, subject to and in accordance with the terms of the Intercreditor Agreement, to exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or under any other Pari Passu Document or otherwise available to it at law, in equity or under any statute or other agreement, all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected Collateral) or any other applicable law or otherwise available at law or equity and also may: (i) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Pari Passu Collateral Agent's offices

or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Pari Passu Collateral Agent may deem commercially reasonable; and (ii) exercise any and all rights and remedies of any of the Grantors under or in connection with the Collateral, or otherwise in respect of the Collateral, including, without limitation, those set forth in Section 9-607 of the UCC. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least 10 days' notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Pari Passu Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Pari Passu Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Pari Passu Collateral Agent and any other Pari Passu Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. If applicable to any particular item of Collateral, such Grantor further agrees, at the Pari Passu Collateral Agent's request, to assemble the Collateral and make it available to the Pari Passu Collateral Agent at places which the Pari Passu Collateral Agent shall reasonably select, whether at such Grantor's premises or elsewhere. Any such sale or transfer by the Pari Passu Collateral Agent, either to itself or to any other Person, shall be absolutely free from any claim of right by such Grantor, including any equity or right of redemption, stay or appraisal which such Grantor has or may have under any rule of law, regulation or statute now existing or hereafter adopted (and such Grantor hereby waives any rights it may have in respect thereof). Upon any such sale or transfer, the Pari Passu Collateral Agent shall have the right to deliver, assign and transfer to the purchaser or transferee thereof the Collateral so sold or transferred.

- (b) Any cash held by or on behalf of the Pari Passu Collateral Agent and all cash proceeds received by or on behalf of the Pari Passu Collateral Agent in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Pari Passu Collateral Agent, be held by the Pari Passu Collateral Agent as collateral for, and/or then or at any time thereafter applied in whole or in part by the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, against, all or any part of the Secured Obligations, in the manner set forth in Section 6.02.
- (c) All payments received by any Grantor in respect of the Collateral shall be received in trust for the benefit of the Pari Passu Collateral Agent, shall be segregated from other funds of such Grantor and shall be forthwith paid over to the Pari Passu Collateral Agent in the same form as so received (with any necessary endorsement).
- (d) The Pari Passu Collateral Agent is authorized, in connection with any sale of the Collateral pursuant to this Section 6.01, to deliver or otherwise disclose to any prospective purchaser of the Collateral any information in its possession relating to such Collateral.
- (e) The Pari Passu Collateral Agent may appoint any Person as agent to perform any act or acts necessary or incident to appropriate or realize upon any Collateral or to any sale or transfer of the Collateral.
- (f) To the extent permitted by applicable law, each Grantor hereby waives all claims, damages and demands it may acquire against the Pari Passu Collateral Agent arising out of the exercise by it of any rights under this Agreement.

Section 6.02 Application of Proceeds; Waiver; Deficiency.

- (a) The Pari Passu Collateral Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash, as payment for the Secured Obligations in accordance with the terms of the Intercreditor Agreement.
- (b) It is understood and agreed that each Grantor shall remain jointly and severally liable to the extent that the proceeds of the Collateral hereunder are insufficient to pay in full the Secured Obligations.

Section 6.03 <u>Non-Judicial Enforcement</u>. The Pari Passu Collateral Agent may enforce its rights hereunder without prior judicial process or judicial hearing, and to the extent permitted by law, each Grantor expressly waives any and all legal rights which might otherwise require the Pari Passu Collateral Agent to enforce its rights by judicial process.

Section 6.04 U.S. Securities Act, etc. In view of the position of the Grantors in relation to the Pledged Securities, or because of other current or future circumstances, a question may arise under the U.S. Securities Act, as now or hereafter in effect, or any similar federal statute hereafter enacted analogous in purpose or effect (the U.S. Securities Act and any such similar statute as from time to time in effect being called the "Federal Securities Laws") with respect to any disposition of the Pledged Securities permitted hereunder. Each Grantor understands that compliance with the Federal Securities Laws might very strictly limit the course of conduct of the Pari Passu Collateral Agent if the Pari Passu Collateral Agent were to attempt to dispose of all or any part of the Pledged Securities, and might also limit the extent to which or the manner in which any subsequent transferee of any Pledged Securities could dispose of the same. Similarly, there may be other legal restrictions or limitations affecting the Pari Passu Collateral Agent in any attempt to dispose of all or part of the Pledged Securities under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. Each Grantor acknowledges and agrees that in light of such restrictions and limitations, the Pari Passu Collateral Agent, in its sole and absolute discretion, (a) may proceed to make such a sale whether or not a registration statement for the purpose of registering such Pledged Securities or part thereof shall have been filed under the Federal Securities Laws or, to the extent applicable, Blue Sky or other state securities laws and (b) may approach and negotiate with a single potential purchaser to effect such sale. Each Grantor acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, the Pari Passu Collateral Agent shall incur no responsibility or liability for selling all or any part of the Pledged Securities at a price that the Pari Passu Collateral Agent, in its sole and absolute discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if the sale were deferred until after registration as aforesaid or if more than a single purchaser were approached. The provisions of this Section 6.04 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which the Pari Passu Collateral Agent sells.

Section 6.05 Registration, etc. Each Grantor agrees that, upon the occurrence and during the continuance of an Event of Default, if, for any reason the Pari Passu Collateral Agent desires to sell any of the Pledged Securities at a public sale, such Grantor will, at any time and from time to time, upon the written request of the Pari Passu Collateral Agent, use its commercially reasonable efforts to take or to cause the issuer of such Pledged Securities to take such action and prepare, distribute and/or file such documents, as are required or advisable in the reasonable opinion of counsel for the Pari Passu Collateral Agent to permit the public sale of such Pledged Securities. Each Grantor further agrees to indemnify, defend and hold harmless the Pari Passu Collateral Agent, each other Pari Passu Secured Party, any underwriter and their respective officers, directors, affiliates and controlling persons from and against all loss, liability, expenses, costs of counsel (including reasonable fees and expenses of legal counsel to the Pari Passu Collateral Agent), and claims (including the costs of investigation) that they may incur insofar as such loss, liability, expense or claim arises out of or is based upon any alleged untrue statement of a material fact contained in any prospectus (or any amendment or supplement thereto) or in any notification or offering circular, or arises out of or is based upon any alleged omission to state a material fact required to be stated therein or necessary to make the statements in any thereof not misleading, except insofar as the same may have been caused by any untrue statement or omission based upon information furnished in writing to such Grantor or the issuer of such Pledged Securities by the Pari Passu Collateral Agent or any other Pari Passu Secured Party expressly for use therein. Each Grantor further agrees, upon such written request referred to above, to use its commercially reasonable efforts to qualify, file or register, or cause the issuer of such Pledged Securities to qualify, file or register, any of the Pledged Securities under the Blue Sky or other securities laws of such states as may be reasonably requested by the Pari Passu Collateral Agent and keep effective, or cause to be kept effective, all such qualifications, filings or registrations. Each Grantor will bear all costs and expenses of carrying out its obligations under this Section 6.05. Each Grantor acknowledges that there is no adequate remedy at law for failure by it to comply with the provisions of this Section 6.05 only and that such failure would not be adequately compensable in damages and, therefore, agrees that its agreements contained in this Section 6.05 may be specifically enforced.

ARTICLE VII The Pari Passu Collateral Agent

Section 7.01 Pari Passu Collateral Agent's Appointment as Attorney-in-Fact, Etc.

(a) Each Grantor hereby irrevocably constitutes and appoints the Pari Passu Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor, as appropriate, or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all reasonably appropriate action and to execute any and all documents and instruments which may be reasonably necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Pari Passu Collateral Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:

(i) unless being disputed in accordance with the terms of the Pari Passu Documents, pay or discharge taxes and liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement or any other Pari Passu Document and pay all or any part of the premiums therefor and the costs thereof;

- (ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Pari Passu Collateral Agent may request to evidence the Pari Passu Collateral Agent's security interest in such Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;
- (iii) execute, in connection with any sale provided for in Section 6.01, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and
- (iv) (A) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Pari Passu Collateral Agent (for the benefit of the Secured Pari Passu Parties) or as the Pari Passu Collateral Agent shall direct; (B) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (C) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (D) in the name of such Grantor, as appropriate, or its own name, or otherwise, take possession of and indorse and collect any check, draft, note, acceptance or other instrument for the payment of moneys due with respect to any Collateral and commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (E) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (F) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Pari Passu Collateral Agent may deem appropriate; (G) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Pari Passu Collateral Agent shall in its sole discretion determine; and (H) sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Pari Passu Collateral Agent were the absolute owner thereof for all purposes, and do, at the Pari Passu Collateral Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Pari Passu Collateral Agent deems necessary to protect, preserve or realize upon the Collateral and the Pari Passu Collateral Agent's security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

Anything in this Section 7.01(a) to the contrary notwithstanding, (x) the Pari Passu Collateral Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 7.01(a) unless an Event of Default shall have occurred and be continuing, and (y) the parties agree that the grant of the power of attorney set forth in this Section 7.01(a) shall not be deemed to create an obligation on the part of the Pari Passu Collateral Agent to take any one or more of the actions described herein.

- (b) If any Grantor fails to perform or comply with any of its agreements contained herein within the applicable grace periods, the Pari Passu Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.
- (c) The expenses of the Pari Passu Collateral Agent incurred in connection with actions undertaken as provided in this Section 7.01 shall constitute Secured Obligations and shall be payable by such Grantor to the Pari Passu Collateral Agent on demand.
- (d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue and in compliance hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

Section 7.02 <u>Duty of Pari Passu Collateral Agent</u>. The Pari Passu Collateral Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Pari Passu Collateral Agent deals with similar property for its own account, and the Pari Passu Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which comparable secured parties accord comparable collateral. Neither the Pari Passu Collateral Agent, any other Pari Passu Secured Party nor any of their respective agents, employees, stockholders, directors and officers shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Pari Passu Collateral Agent hereunder are solely to protect the Pari Passu Collateral Agent's and the other Pari Passu Secured Parties' interests in the Collateral and shall not impose any duty upon the Pari Passu Collateral Agent or any other Pari Passu Secured Party to exercise any such powers. The Pari Passu Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its agents, employees, stockholders, directors and officers shall be responsible to any Grantors for any act or failure to act hereunder, except for their own gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a final and non–appealable decision. To the fullest extent permitted by applicable law, the Pari Passu Collateral Agent shall be under n

presentment, notice of dishonor, protest, demand for performance, notice of non-performance, notice of intent to accelerate, notice of acceleration, or other notice or demand in connection with any Collateral or the Secured Obligations, or to take any steps necessary to preserve any rights against any Grantor or any other Person or ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not it has or is deemed to have knowledge of such matters. Each Grantor, to the extent permitted by applicable law, waives any right of marshaling in respect of any and all Collateral, and waives any right to require the Pari Passu Collateral Agent or any other Pari Passu Secured Party to proceed against any Grantor or any other Person, exhaust any Collateral or enforce any other remedy which the Pari Passu Collateral Agent or any other Pari Passu Secured Party now has or may hereafter have against each Grantor and any other Person.

Section 7.03 <u>Authority of Pari Passu Collateral Agent</u>. Each Grantor acknowledges that the rights and responsibilities of the Pari Passu Collateral Agent under this Agreement with respect to any action taken by the Pari Passu Collateral Agent or the exercise or non-exercise by the Pari Passu Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement or in connection with the Secured Obligations shall, as between the Pari Passu Collateral Agent and the other Pari Passu Secured Parties, be governed by the terms of the Intercreditor Agreement (including, without limitation, the rights and protections set forth therein) and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Pari Passu Collateral Agent and the Grantors, the Pari Passu Collateral Agent shall be conclusively presumed to be acting as agent for the Pari Passu Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

Section 7.04 <u>Limitation on Duty of Pari Passu Collateral Agent in Respect of Collateral</u>. Notwithstanding anything to the contrary set forth in this Agreement or in any other Collateral Agreement, the Pari Passu Collateral Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Pari Passu Collateral Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property, and shall not be liable or responsible for any loss, damage or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee appointed by the Pari Passu Collateral Agent in good faith.

Notwithstanding anything to the contrary set forth in this Agreement or in any other Collateral Agreement, the Pari Passu Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral, or for the validity, perfection, priority or enforceability of the liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of such Grantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Pari Passu Collateral Agent shall have no duty to ascertain, monitor, investigate or inquire as to the performance or observance of any of the terms of this Agreement or any other Collateral Agreement by such Grantor or any other party to such documents.

The provisions of Article 3 of the Intercreditor Agreement are incorporated herein by reference.

Section 7.05 Indemnity and Expenses.

- (a) Without prejudice to any other rights or remedies of the Pari Passu Collateral Agent under any of the other Pari Passu Documents, each Grantor agrees to indemnify, defend and save and hold harmless the Pari Passu Collateral Agent and each of its officers, directors, employees, agents and advisors (each, an "Indemnified Party") from and against, and shall pay on demand any and all claims, damages, losses, liabilities and expenses (including, without limitation, the reasonable fees and disbursements of a single counsel to such parties plus one special maritime counsel to such parties, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from an Indemnified Party's gross negligence, bad faith or willful misconduct.
- (b) Without prejudice to any other rights or remedies of the Pari Passu Collateral Agent under any of the other Pari Passu Documents, each Grantor will, upon demand, pay to the Pari Passu Collateral Agent and each of its officers, directors, employees, agents and advisors the amount of any and all expenses (including, without limitation, the reasonable fees and disbursements of a single counsel to such parties plus one special maritime counsel to such parties, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) that may be incurred in connection with (i) the transactions which give rise to this Agreement, the preparation of this Agreement and the administration of this Agreement, (ii) the custody or preservation of, use or operation of, or the sale of, collection from or other realization upon, any of the Collateral of such Grantor, (iii) the exercise or enforcement of any of the Pari Passu Collateral Agent or the other Pari Passu Secured Parties hereunder or (iv) the failure by such Grantor to perform or observe any of the provisions hereof.

ARTICLE VIII Miscellaneous

Section 8.01 <u>Additional Grantors</u>. In the event that, after the date hereof, another Person is required to become a Grantor hereunder pursuant to the terms of the Indenture, the Revolving Credit Agreement, and the Term Loan Agreement, then upon the execution and delivery, or authentication, by any such Person of a supplement to this Agreement in substantially the form of Exhibit A hereto (each a "<u>U.S. Pledge and Security Supplement</u>"), (a) such Person shall be referred to as an "Additional Grantor" and shall be and become a Grantor hereunder, and each reference in this Agreement and the other Pari Passu Documents to a

"Grantor" shall also mean and be a reference to such Additional Grantor, and each reference in this Agreement and the other Pari Passu

Documents to "Collateral" shall also mean and be a reference to the Collateral of such Additional Grantor, and (b) the supplemental Schedules attached to each U.S. Pledge and Security Supplement shall be incorporated into and become a part of and supplement the Schedules hereto, and the Pari Passu Collateral Agent may attach such supplemental schedules to such Schedules; and each reference to such Schedules shall mean and be a reference to such Schedules as supplemented pursuant to each U.S. Pledge and Security Supplement.

Section 8.02 Amendments; Waivers .

- (a) No amendment, modification or waiver of any provision of this Agreement, and no consent to any departure by any Grantor herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.
- (b) No failure on the part of the Pari Passu Collateral Agent or any other Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Agreement shall in any manner impair or affect other security for the Secured Obligations. The rights and remedies of the Pari Passu Collateral Agent provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.

Section 8.03 Notices, etc.

- (a) All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party, (i) in the case of any Grantor, to such Grantor at c/o Pacific Drilling Services, Inc., 3050 Post Oak Blvd., Suite 1500, Houston, Texas 77056, Attention: John Boots, Facsimile No. (713) 583-5777, and (ii) in the case of the Pari Passu Collateral Agent, as provided in the Intercreditor Agreement; or in any case at such other address as any of the Persons listed above may hereafter notify the others in writing.
- (b) Any Grantor or the Pari Passu Collateral Agent may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication

is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

Section 8.04 <u>Continuing Security Interest; Successors and Assigns</u>. This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, (b) be binding upon each Grantor, its successors and assigns and (c) inure, together with the rights and remedies of the Pari Passu Collateral Agent hereunder, to the benefit of the Pari Passu Secured Parties and their respective successors, transferees and assigns.

Section 8.05 Survival; Reinstatement; Security Interest Absolute.

- (a) All covenants, agreements, representations and warranties made by each Grantor herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Pari Passu Document to which it is a party shall be considered to have been relied upon by the Pari Passu Collateral Agent and shall survive the execution and delivery of this Agreement, regardless of any investigation made by the Pari Passu Collateral Agent or on its behalf and notwithstanding that the Pari Passu Collateral Agent may have had notice or knowledge of any default or incorrect representation or warranty at the time any credit is extended hereunder or under any other Pari Passu Document, and shall continue in full force and effect as long as any Secured Obligation is outstanding and unpaid. The provisions of Section 7.05 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Secured Obligations, or the termination of this Agreement or any other Pari Passu Document or any provision hereof or thereof or the resignation or removal of the Pari Passu Collateral Agent in accordance with Section 3.6 of the Intercreditor Agreement.
- (b) To the extent that any payments on the Secured Obligations or proceeds of any Collateral are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver or other Person under any bankruptcy law, common law or equitable cause, then to such extent, the Secured Obligations so satisfied shall be revived and continue as if such payment or proceeds had not been received and the Pari Passu Collateral Agent's and the Pari Passu Secured Parties' liens, security interests, rights, powers and remedies under this Agreement shall continue in full force and effect. In such event, this Agreement shall be automatically reinstated and each Grantor shall take such action as may be reasonably requested by the Pari Passu Collateral Agent to effect such reinstatement.
- (c) The obligations of each Grantor under this Agreement are independent of the Secured Obligations or any other obligations of any other Grantor under or in respect of the other Pari Passu Documents, and a separate action or actions may be brought and prosecuted against each Grantor to enforce this Agreement, irrespective of whether any action is brought against such Grantor or whether such Grantor is joined in any such action or actions. All rights of the Pari Passu Collateral Agent and the other Pari Passu Secured Parties and the pledge, assignment and security interest hereunder, and all obligations of each Grantor hereunder, shall be irrevocable, absolute and unconditional irrespective of, and each Grantor hereby irrevocably waives (to the maximum extent permitted by applicable law) any defenses it may now have or may hereafter acquire in any way relating to, any or all of the following:
 - (i) any lack of validity or enforceability of any Pari Passu Document or any other agreement or instrument relating thereto;

- (ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations or any other obligations of the Company or any of its Restricted Subsidiaries under or in respect of any Pari Passu Document or any other amendment or waiver of or any consent to any departure from any Pari Passu Document, including, without limitation, any increase in the Secured Obligations resulting from the extension of additional credit to the Company or any of its Restricted Subsidiaries or otherwise;
- (iii) any taking, exchange, release or non-perfection of any Collateral or any other collateral, or any taking, release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Obligations;
- (iv) any manner of application of any Collateral or any other collateral, or proceeds thereof, to all or any of the Secured Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Secured Obligations or any other obligations of the Company or any of its Restricted Subsidiaries under or in respect of the Pari Passu Documents or any other assets of the Company or any of its Restricted Subsidiaries;
- (v) any change, restructuring or termination of the corporate structure or existence of the Company or any of its subsidiaries;
- (vi) any failure of any Pari Passu Secured Party to disclose to any Grantor any information relating to the business, condition (financial or otherwise), operations, performance, assets, nature of assets, liabilities or prospects of the Company or any Grantor now or hereafter known to such Pari Passu Secured Party (each Grantor waiving any duty on the part of the Pari Passu Secured Parties to disclose such information); or
- (vii) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by any Pari Passu Secured Party that might otherwise constitute a defense available to, or a discharge of, such Grantor or any other Grantor or a third party grantor of a security interest.

Section 8.06 Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which when taken

together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually signed counterpart of this Agreement.

- (b) This Agreement and the other Pari Passu Documents and any separate letter agreements with respect to fees payable to the Pari Passu Collateral Agent or the Pari Passu Secured Parties constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof. This Agreement and the other Pari Passu Documents represent the final agreement among the parties hereto and thereto and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between or among the parties.
- (c) This Agreement shall become effective when it shall have been executed by the Pari Passu Collateral Agent and when the Pari Passu Collateral Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto.

Section 8.07 <u>Severability</u>. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.08 Governing Law; Submission to Jurisdiction.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THAT THE PERFECTION AND THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTEREST CREATED HEREBY, IN RESPECT OF ANY PARTICULAR COLLATERAL, ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH GRANTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH GRANTOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GRANTOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GRANTOR. EACH GRANTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY

THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 8.03 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH GRANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY GRANTOR IN ANY OTHER JURISDICTION.

- (b) EACH GRANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 8.09 <u>Headings</u>. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 8.10 Acknowledgments . Each Grantor hereby acknowledges that:

- (a) neither the Pari Passu Collateral Agent nor any other Pari Passu Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Pari Passu Documents, and the relationship between the Company and the other Grantors, on the one hand, and the Pari Passu Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor;
- (b) no joint venture is created hereby or by the other Pari Passu Documents or otherwise exists by virtue of the transactions contemplated hereby among the Pari Passu Secured Parties or among the Grantors and the Pari Passu Secured Parties; and
- (c) each of the parties hereto specifically agrees that it has a duty to read this Agreement and the other Pari Passu Documents and agrees that it is charged with notice and knowledge of the terms of this Agreement and the other Pari Passu Documents; that it has in fact read this Agreement and the other Pari Passu Documents and is fully informed and has full notice and knowledge of the terms, conditions and effects thereof; that it has been represented by

independent legal counsel of its choice throughout the negotiations preceding its execution of this Agreement; and has received the advice of its attorney in entering into this Agreement. Each party hereto agrees and covenants that it will not contest the validity or enforceability of any exculpatory provision on the basis that the party had no notice or knowledge of such provision or that the provision is not "conspicuous."

Section 8.11 Releases, Termination.

- (a) Upon any sale, transfer or other disposition of any item of Collateral of any Grantor in accordance with the terms of the Intercreditor Agreement and the other Pari Passu Documents, the Pari Passu Collateral Agent will, at such Grantor's expense, execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence the release of such item of Collateral from the security interest granted hereby.
- (b) Upon the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, the pledge and security interest granted hereby shall terminate and all rights to the Collateral shall revert to the applicable Grantor. Upon any such termination, the Pari Passu Collateral Agent will, at the written request of the applicable Grantor and at such Grantor's expense, execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence such termination.
- Section 8.12 <u>Acceptance</u>. Each Grantor expressly waives notice of acceptance of this Agreement, acceptance on the part of the Pari Passu Secured Parties being conclusively presumed by their request for this Agreement and delivery of the same to the Pari Passu Collateral Agent.
- Section 8.13 <u>General Limitation of Liability</u>. The Pari Passu Collateral Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Pari Passu Collateral Agent that prevents the Pari Passu Collateral Agent from performing such act or fulfilling such duty, obligation or responsibility hereunder (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire, facsimile or other wire or communication facility).
- (b) In no event shall the Pari Passu Collateral Agent be responsible or liable for special, indirect, or consequential loss, lost profits or damage of any kind whatsoever (including, but not limited to, loss of profit and diminution in the value thereof) irrespective of whether the Pari Passu Collateral Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.
- Section 8.14 <u>Resignation or Removal of Pari Passu Collateral Agent</u>. If the Pari Passu Collateral Agent resigns or is removed in accordance with the Intercreditor Agreement, such retiring Pari Passu Collateral Agent shall cease to be a party to this Agreement and all obligations imposed upon such retiring Pari Passu Collateral Agent pursuant to this Agreement shall be terminated as to such retiring Pari Passu Collateral Agent appointed pursuant to the terms of the

Intercreditor Agreement, provided, however, the retiring Pari Passu Collateral Agent's indemnification rights contained in this Agreement, the Intercreditor Agreement or otherwise shall continue in favor of the retiring Pari Passu Collateral Agent.

- Section 8.15 <u>Applicable Foreign Law</u>. Notwithstanding anything to the contrary contained herein, each Grantor and the Pari Passu Collateral Agent hereby acknowledge and agree that:
- (a) one or more Grantors hereunder may be organized under the laws of jurisdictions (herein referred to as the "Foreign Jurisdictions") other than the United States, the District of Columbia and the States of the United States;
- (b) the creation and perfection of the Pari Passu Collateral Agent's liens and security interests in the Collateral and the rights and remedies of the Pari Passu Collateral Agent with respect thereto may, in some circumstances, be subject to the laws, rules and regulations of such Foreign Jurisdictions; and
- (c) the applicable Grantor may also execute and deliver to the Pari Passu Collateral Agent (or its designee) separate Collateral Agreements (herein referred to as the "Foreign Security Documents") that are governed by applicable foreign law and that also cover such Collateral, in which case, the provisions of this Agreement shall apply only to the extent that the matters addressed hereby are governed by the UCC or by the laws of the State of New York and not by applicable foreign law or the Foreign Security Documents.

Section 8.16 <u>U.S.A Patriot Act</u>. The parties hereto acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act), all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Pari Passu Collateral Agent such information as it may request, from time to time, in order for the Pari Passu Collateral Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 8.17 <u>Conflict</u>. In the event of a direct conflict between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Agreement sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Agreement as not being in direct conflict with the Intercreditor Agreement.

The Pari Passu Collateral Agent shall have all the benefits, indemnities, powers, privileges, protections and rights contained in the Intercreditor Agreement (including for the avoidance of any doubt Article III of the Intercreditor Agreement) in connection with acting in its capacity as Pari Passu Collateral Agent hereunder.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Exhibit H Page 28

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

[SIGNATURE BLOCK FOR EACH GRANTOR]		
By:		
Name:		
Title:		

[Signature Page to U.S. Pledge and Security Agreement]

CITIBANK, N.A., as Pari Passu Collateral Agent		
By: Name: Title:		

Acknowledged and Agreed to as of the date hereof by:

[Signature Page to U.S. Pledge and Security Agreement]

SCHEDULE 3.01

Names/Trade Names, Jurisdiction of Organization, Organization Number, Taxpo	ayer Identification Number, Chief Executive Office
1	

Schedule 3.01-1

SCHEDULE 3.02

Commercial Tort Claims

[]

Schedule 3.02-1

Earnings Accounts
SCHEDULE 3.05

[]

Schedule 3.05-1

		SCHEDULE 5.02A
		Securities
[]	

Schedule 5.02A-1

		SCHEDULE 5.02B
		Instruments
[]	

Schedule 5.02B-1

EXHIBIT A

[FORM OF]

U.S. PLEDGE AND SECURITY AGREEMENT SUPPLEMENT

This U.S. PLEDGE AND SECURITY	AGREEMENT S	SUPPLEMENT (this " <u>U.S. Pledge and Security Supplement</u> "), dated as of
], 20[], is made by [], a [] (the "Additional Grantor"), in favor of CITIBANK, N.A. ("Citibank"), in its
capacity as Pari Passu Collateral Agent (tog	ether with any suc	ccessor pari passu collateral agent, the "Pari Passu Collateral Agent") for the Pari
Passu Secured Parties (as such term is defin	ed in the U.S. Pled	dge and Security Agreement referred to below).

WITNESSETH:

WHEREAS, Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (the "Company"), has entered into a Credit Agreement dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Revolving Credit Agreement"), with the lenders from time to time party thereto, the Issuing Lenders (as defined therein) and Citibank, as administrative agent, providing for the making of loans to the Company and the issuance of letters of credit for the account of the Company or any Restricted Subsidiary (as defined therein) of the Company in the aggregate principal amount of \$500,000,000;

WHEREAS, the Company or any Restricted Subsidiary of the Company has entered into, or may at any time and from time to time enter into, (a) one or more Interest Rate Protection Agreements (as defined in the Revolving Credit Agreement) and/or Other Hedging Agreements (as defined in the Revolving Credit Agreement) (with each such Interest Rate Protection Agreement and/or Other Hedging Agreement with an Other Creditor being herein called a "Secured Hedging Agreement") or (b) one or more Secured Cash Management Agreements (as defined in the Revolving Credit Agreement);

WHEREAS, the Company has entered into a Term Loan Credit Agreement dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement"), with the lenders from time to time party thereto and Citibank, as administrative agent, providing for the making of term loans to the Company in the aggregate principal amount of \$750,000,000. In accordance with the terms of the Term Loan Agreement, the Company may incur additional term loans thereunder in an aggregate principal amount such that the sum of all Notes Obligations, plus the aggregate amount of all Pari Passu Obligations (other than the Revolving Credit Agreement Obligations) does not exceed \$1,700,000,000;

WHEREAS, the Company has entered into an Indenture dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Indenture") with the subsidiary guarantors party thereto from time to time and Deutsche Bank

Exhibit A-1

Trust Company Americas, as trustee, pursuant to which the Company has issued its 5.375% Senior Secured Notes due 2020 in an initial aggregate principal amount of \$750,000,000 (the "<u>Initial Notes</u>"). In accordance with the terms of the Indenture, the Company may issue additional senior secured notes thereunder in an additional principal amount of up to \$100,000,000 (such additional notes, together with the Initial Notes, the "<u>Notes</u>");

WHEREAS, in connection with the Revolving Credit Agreement, the Secured Hedging Agreements, the Secured Cash Management Agreements, the Term Loan Agreement and the Indenture, certain Subsidiaries of the Company have entered into a U.S. Pledge and Security Agreement dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including as supplemented by this U.S. Pledge and Security Supplement, the "<u>U.S. Pledge and Security Agreement</u>") in favor of the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties;

WHEREAS, the Revolving Credit Agreement, the Term Loan Agreement and the Indenture require the Additional Grantor to execute and deliver this U.S. Pledge and Security Supplement to the Pari Passu Collateral Agent, and the Additional Grantor has agreed to execute and deliver this U.S. Pledge and Security Supplement to the Pari Passu Collateral Agent;

NOW, THEREFORE, IT IS AGREED:

- (a) SECTION 1. <u>Defined Terms</u>. Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Intercreditor Agreement (as defined in the U.S. Pledge and Security Agreement) or the U.S. Pledge and Security Agreement.
- (b) SECTION 2. <u>Grant of Security Interest</u>. The Additional Grantor hereby pledges, assigns and transfers to the Pari Passu Collateral Agent, and hereby grants to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, a continuing security interest in and to all of such Additional Grantor's right, title and interest in and to all of the following personal property, whether now owned or existing or hereafter acquired or arising and regardless of where located, as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations, whether now existing or hereafter incurred or arising:
 - (i) all Accounts;
 - (ii) all Chattel Paper;
 - (iii) all Documents;
 - (iv) all General Intangibles, including all Intellectual Property;
 - (v) all Goods:
 - (vi) all Earnings and all Earnings Accounts, including all Deposit Accounts (including all cash and other items deposited therein or credited thereto) and Securities Accounts (including all Securities Entitlements related thereto), in each case that are Earnings Accounts;
 - (vii) all Letter of Credit Rights and Supporting Obligations;

Exhibit A-2

(viii) all Pledged Collateral;

- (ix) all Commercial Tort Claims specifically described on Schedule 3.02 (as such schedule may be updated from time to time in accordance with Section 4.03 of the U.S. Pledge and Security Agreement);
- (x) all books and Records relating to the foregoing;
- (xi) to the extent not otherwise described above, all Proceeds, products, accessions, rents and profits of, or in respect of, any and all of the foregoing and all collateral security and guarantees given by any Person to or in favor of the Additional Grantor with respect to any of the foregoing;

provided, that notwithstanding anything to the contrary contained in this Section 2, the security interest created hereunder shall not extend to, and the term "Collateral" shall not include any Excluded Collateral.

SECTION 3. Obligations Under the U.S. Pledge and Security Agreement. The undersigned hereby agrees, as of the date first above written, to be bound as a Grantor by all of the terms and conditions of the U.S. Pledge and Security Agreement to the same extent as each of the other Grantors thereunder. The undersigned further agrees, as of the date first above written, that each reference in the U.S. Pledge and Security Agreement to an "Additional Grantor" or a "Grantor" shall also mean and be a reference to the undersigned, and each reference in any other Pari Passu Document to a "Grantor" shall also mean and be a reference to the undersigned. The information set forth in Annex A hereto is hereby added to the information set forth in Schedules [] ¹ to the U.S. Pledge and Security Agreement.

SECTION 4. Representations, Warranties and Covenants. The undersigned hereby (a) makes each representation and warranty set forth in Article III of the U.S. Pledge and Security Agreement (assuming that all references in such Article III to a specific date refer to the date hereof) and (b) undertakes each covenant obligation set forth in Article IV and Article V of the U.S. Pledge and Security Agreement, in each case to the same extent as each other Grantor.

SECTION 5. Governing Law. THIS U.S. PLEDGE AND SECURITY SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THAT THE PERFECTION AND THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTEREST CREATED HEREBY, IN RESPECT OF ANY PARTICULAR COLLATERAL, ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Exhibit A-3

¹ Refer to each Schedule which needs to be supplemented.

Very truly yours,
[NAME OF ADDITIONAL GRANTOR]
Ву:
Name: Title:
Notice Address:

IN WITNESS WHEREOF, the undersigned has caused this U.S. Pledge and Security Supplement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

Exhibit A-4

Annex A

[Information to Supplement Schedules to the U.S. Pledge and Security Agreement]

Exhibit A-5

EXHIBIT I

FORM OF FIRST PREFERRED MORTGAGE

- ON THE
[] FLAG VESSEL

[NAME OF VESSEL]

OFFICIAL NO. []

[],

as Owner

TO

CITIBANK, N.A.,

as Pari Passu Collateral Agent and Trustee, Mortgagee

[DATE]

Exhibit	I
Page	2

TH	IS FIRST PREFERRED MOR	TGAGE (this " Mortgage	e") is made and given this [] day of [], 20[] by [],
a [] organized and existing	under the laws of [][and qualified as a fo	reign maritime	e entity under th	e laws of	
[]], with offices at [] (the " <u>Owner</u> "), in	favor of CITIBANK, N.A.,	as the pari pas	su collateral age	ent (the " <u>I</u>	Pari Passu
Collatera	<u>l Agent</u> ") for the Pari Passu S	ecured Parties (defined be	low) (together with its succe	ssors and assi	gns, in such cap	acity, the	"
Mortgage	<u>ee</u> ").						

Capitalized terms used herein and not otherwise defined are used herein as defined in the Intercreditor Agreement (as defined below).

WHEREAS:

A. The O	wner is the sole owner of the whole of the vessel named [], Official Number [], of about []
gross tons and [] net tons, registered and documented in the name of the Owne	er under the laws and flag of [].	

- B. Pursuant to Section 3.1(c) of the Intercreditor Agreement (as defined below), the Mortgagee has agreed to act as trustee mortgagee on behalf of the Pari Passu Secured Parties and hold this Mortgage in such capacity.
- C. The Owner is a wholly owned subsidiary of Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (together with its successors and permitted assigns, the "Company").
- D. The Company is the borrower under the Revolving Credit Agreement (as hereinafter defined) pursuant to which the lenders from time to time party thereto have made available to the Company an extension of credit in the form of loans and letters of credit in the aggregate principal amount of Five Hundred Million United States Dollars (US\$500,000,000). The form of the Revolving Credit Agreement is annexed hereto as Exhibit A and made a part hereof. In addition, the terms of the Term Loan Agreement (as hereinafter defined) and the terms of the indenture governing the Notes (as hereinafter defined) permit the Revolving Credit Agreement to be increased to provide for an additional One Hundred Million United States Dollars (US\$100,000,000) of extensions of loans and letters of credit to a total aggregate principal amount of Six Hundred Million United States Dollars (US\$600,000,000).
- E. The Company is the borrower under the Term Loan Agreement (as hereinafter defined) pursuant to which the lenders from time to time party thereto have advanced to the Company a term loan in the aggregate principal amount of Seven Hundred Fifty Million United States Dollars (US\$750,000,000). The form of the Term Loan Agreement is annexed hereto as Exhibit B and made a part hereof. In accordance with the terms of the Term Loan Agreement, the Company may incur additional term loans thereunder by a further One Hundred

Million United States Dollars (US\$100,000,000) provided that the aggregate principal amount of the loans outstanding thereunder, plus the aggregate principal amount of outstanding Notes (as hereinafter defined) does not exceed One Billion Seven Hundred Million United States Dollars (US\$1,700,000,000).

- F. The Owner, as a guarantor, is party to the Indenture (as hereinafter defined) pursuant to which the Company, as issuer, has issued Seven Hundred Fifty Million United States Dollars (US\$750,000,000) aggregate principal amount of 5.375% senior secured notes due 2020 (the "Initial Notes"). The form of the Indenture is annexed hereto as Exhibit C and made a part hereof. In accordance with the terms of the Indenture, the Company may issue additional senior secured notes thereunder in an additional principal amount of up to One Hundred Million United States Dollars (US\$100,000,000) (such additional notes, together with the Initial Notes, the "Notes").
- G. The Owner has executed its (x) Subsidiary Guaranty as defined in the Revolving Credit Agreement (the "Revolving Credit Agreement (the "Revolving Credit Agreement (the "Revolving Credit Agreement Guaranty), (y) Subsidiary Guaranty (as defined in the Indenture) (the "Note Guarantee"), and (z) Subsidiary Guaranty as defined in the Term Loan Agreement (the "Term Loan Agreement Guarantee and the Note Guarantee, the "Guarantees") whereby the Owner has guaranteed the obligations of the Company under the Revolving Credit Agreement, the Term Loan Agreement, and the Indenture, respectively. The Owner will receive substantial, direct and indirect, benefits through the extensions of credit and the proceeds of the loans and notes under the terms of the Credit Facilities (as hereinafter defined) and related documents; and in consideration of such benefit and other good and valuable consideration and to secure its obligations under the Guarantees, the receipt and sufficiency of which are hereby acknowledged, the Owner has executed this Mortgage. The form of the Revolving Credit Agreement Guarantee is part of Exhibit A and made a part hereof. The Term Loan Guarantee is part of Exhibit B and made a part hereof. The form of the Note Guarantee is set forth in the Indenture which is annexed hereto as Exhibit C and made a part hereof.
- H. The Company is justly indebted under the Revolving Credit Agreement, the Term Loan Agreement and the Indenture, and the Owner is justly indebted under the Guarantees.
- I. In accordance with the terms of the Intercreditor Agreement the parties thereto have, inter alia, agreed to certain matters relating to this Mortgage, the Revolving Credit Agreement, the Term Loan Agreement, and the Indenture. The form of the Intercreditor Agreement is annexed hereto as Exhibit D and made a part hereof.
- J. This Mortgage secures the payment and performance of the Pari Passu Obligations (including, without limitation, the costs, expenses and other amounts payable by the Owner in connection with Mortgagee's enforcing its rights and remedies pursuant to this Mortgage) and the Owner has duly authorized the execution and delivery of this Mortgage.

K. [This Mortgage is made under and pursuant to Chapter 3 of Title 21 of the Liberian Code of Laws of 1956 as amended; the parties have agreed this Mortgage is made "pursuant to agreement" within the meaning of Section 106A(3). For the purposes of said section 106(A)(3), (x) the agreed-upon maximum amount (representing all the debts and obligations arising or that may arise under the Guarantees secured by this Mortgage) is Three Billion United States Dollars \$3,000,000,000 which is comprised of (i) the aggregate principal amount of Six Hundred Million United States Dollars (\$600,000,000.00) under the Revolving Credit Agreement, (ii) the aggregate principal amount of Eight Hundred Fifty Million United States Dollars (\$850,000,000.00) under the Indenture, (iv) the contingent amount of Three Hundred Million United States Dollars (\$300,000,000.00), relating to certain hedging obligations, obligations in respect of certain cash management agreements and losses resulting from fluctuations in exchange rates related to letters of credit denominated in currencies other than US Dollars, and (v) the amount of Four Hundred Million United States Dollars (\$400,000,000.00) relating to interest, fees, expenses and other costs (y) the specified period is the period from and including June 3, 2013 through and including June 3, 2030, and (z) June 3, 2030 is the date of termination of this Mortgage.] ¹

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

- 1.1 <u>Definitions</u>: Capitalized terms used in this Mortgage and not otherwise defined are used herein as defined in the Intercreditor Agreement. In this Mortgage, unless the context otherwise requires:
 - (A) "Credit Facilitie s" means the Revolving Credit Agreement, the Term Loan Agreement and the Indenture.
 - (B) "<u>Drilling Contract</u>" shall mean any charterparty, pool agreement or drilling contract in respect of the Vessel or other contract for use of the Vessel.
 - (C) "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Company or any of its Subsidiaries as a consequence of the operation of the Vessel, including without limitation payments of any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Company or any of its Subsidiaries as a consequence of the operation of the Vessel; (iii) compensation payable to the Company or any of its Subsidiaries in the event of any requisition of the Vessel; (iv) remuneration for salvage, towage and other services performed by the Vessel and payable to the Company or any of its Subsidiaries; (v) demurrage and retention money receivable by the Company or any of its Subsidiaries in relation to the Vessel; (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings; (vii) if and

To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

whenever the Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel; and (viii) other money whatsoever due or to become due to the Company or any of its Subsidiaries in relation to the operation of the Vessel.

- (D) "Indenture" means that certain Indenture dated as of the date hereof, among the Company, as issuer, and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee (in such capacity, together with its successors and assigns in such capacity, the "Trustee"), and any and all successors thereto in such capacity, as the same has been and may be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- (E) "Insurances" shall mean insurance required to be maintained by the Owner on the Vessel under the Pari Passu Documents.
- (F) "<u>Intercreditor Agreement</u>" means that certain Intercreditor Agreement dated as of the date hereof by and among the Pari Passu Collateral Agent, the Trustee, the Revolving Credit Agent, the Term Loan Agent, the Company, the Owner and each other Grantor, as it may be amended, restated, supplemented or otherwise modified in accordance with its terms, including pursuant to the Joinder Agreements.
- (G) "ISM Code" means the International Safety Management Code for the Safe Operating of Ships and for Pollution Prevention constituted pursuant to Resolution A.741(18) of the International Maritime Organization and incorporated into the Safety of Life at Sea Convention and includes any amendments or extensions thereto and any regulation issued pursuant thereto.
- (H) "ISM Documentation" means (i) the document of compliance and safety management certificate issued pursuant to the ISM Code in relation to the Vessel within the periods specified by the ISM Code, (ii) all other documents and data which are relevant to the safety management system which is required to be developed, implemented and maintained under the ISM Code and its implementation and verification and (iii) any other documents which are prepared or which are otherwise relevant to establish and maintain the Vessel's or the Owner's compliance with the ISM Code.
- (I) "ISPC Code" means the International Ship and Port Facility Security Code adopted by the International Maritime Organization (as the same may be amended from time to time).

- (J) "Lien" shall mean with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.
- (K) "Pari Passu Collateral Agent" means Citibank, N.A, and its replacements, successors and assigns, in its capacity as the collateral agent for all holders of Pari Passu Obligations.
- (L) "<u>Requisition Compensation</u>" means all moneys or other compensation payable and belonging to the Owner by reason of requisition for title or other compulsory acquisition of the Vessel or otherwise than by requisition for hire.
- (M) "Revolving Credit Agreement" means that certain Credit Agreement, dated as of the date hereof, among the Company, as borrower, various lenders from time to time party thereto, Citibank N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Revolving Credit Agent") and issuing lender, and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- (N) "Term Loan Agreement" means that certain Term Loan Agreement dated as of the date hereof, among the Company, as borrower, the lenders from time to time party thereto, Citibank, N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Term Loan Agent"), and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- (O) "Vessel" means the whole of the vessel described in Recital A hereof and includes its engines, machinery, boats, boilers, masts, rigging, anchors, chains, cables, apparel, tackle, outfit, spare gear, fuel, consumable and other stores, freights, belongings and appurtenances, whether on board or ashore, whether now owned or hereafter acquired, and any and all additions, improvements and replacements hereafter made in or to the said

vessel, or any part thereof, or in or to the stores, belongings and appurtenances aforesaid except such equipment or stores which, when placed aboard said vessel, do not become the property of the Owner.

2. Grant of Mortgage; Representations and Warranties .

2.1 In consideration of the premises and of other good and valuable consideration, the receipt and adequacy whereof are hereby acknowledged by the Owner, and in order to secure the payment and performance of the Pari Passu Obligations, the Owner has granted, conveyed and mortgaged, and does by these presents grant, convey and mortgage, to and in favor of the Mortgagee, its successors and permitted assigns, the whole of the Vessel <u>TO HAVE AND TO HOLD</u> the same unto the Mortgagee, its successors and assigns, forever, upon the terms set forth in this Mortgage for the enforcement of the payment and performance of the Pari Passu Obligations;

PROVIDED, ONLY, and the conditions of these presents are such that, upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, then these presents and the rights of the Mortgagee under this Mortgage shall cease and terminate and the security interest hereby created shall be released and, in such event, the Mortgagee agrees by accepting this Mortgage, at the expense of the Owner, to execute all such documents as the Owner may reasonably require to discharge this Mortgage under the laws of []; otherwise to be and remain in full force and effect.

2.2 The Owner hereby represents and warrants to the Mortgagee that:

[] foreign maritime entity]; it is duly authorized to mortgage the Vessel; all action necessary as required by law for the execution at
delivery of this Mortgage has been duly and effectively taken; it has full power and authority to own and mortgage the Vessel; this Mortgage is
valid and enforceable obligation of the Owner, enforceable in accordance with its terms. All necessary consents and approvals for the entering
into and performance of this Mortgage have been duly obtained or given and the entering into and performance of this Mortgage does not and
will not contravene the terms of or constitute a default under (with or without giving of notice or lapse of time or both) any material agreement,
instrument or document to which the Owner is a party or by which it or its properties are bound or affected. The Owner is now, and shall so
remain until this Mortgage is discharged, fully qualified to own and operate vessels documented under [Chapter 3 of Title 21 of the Liberian
Code of Laws of 1956, as amended,] 2 and except as otherwise permitted hereunder, will remain qualified to document the Vessel in its name as
owner under the laws, regulations and flag of [];

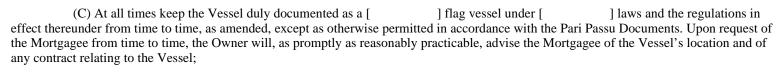
² To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- (B) The Owner lawfully owns and is lawfully possessed of the whole of the Vessel free from any Lien whatsoever (other than Liens permitted under the Pari Passu Documents) and will warrant and defend the title and possession thereto and to every part thereof for the benefit of the Mortgagee against the claims and demands of all persons whomsoever; provided, however, that notwithstanding anything herein to the contrary, no intention to subordinate the security interest and Lien granted in favor of the Mortgagee hereunder is to be implied or expressed by the permitted existence of Liens permitted under the Pari Passu Documents; and
- (C) The Owner will cause this Mortgage to be duly recorded in [the Office of the Deputy Commissioner of Maritime Affairs of the Republic of Liberia (the "Deputy Commissioner's Office"), in accordance with the provisions of Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended, as a mortgage made "pursuant to agreement" within the meaning of Section 106A(3)] ³, and will otherwise comply with and satisfy, or cause to be complied with and satisfied, all of the provisions of applicable laws of [] in order to establish, perfect and maintain this Mortgage as a valid, enforceable and duly perfected first preferred mortgage lien thereunder upon the Vessel and upon all additions, improvements and replacements made in or to the same, in order to secure the Pari Passu Obligations.
- 3. <u>Payment of Notes Obligations</u>. The Owner acknowledges it is justly indebted under the Pari Passu Documents. The Owner hereby further covenants and agrees to pay when due the Pari Passu Obligations to the Mortgagee and the other Pari Passu Secured Parties or their respective successors or assigns and to comply with the covenants, terms and conditions herein and in the Pari Passu Documents, expressed or implied on its part to be observed, performed or complied with or applicable to it.
 - 4. Covenants Regarding Security Granted Hereunder. It is declared and agreed that:
- (A) The security created by this Mortgage shall be held by the Mortgagee as a continuing security for the payment and performance of the Pari Passu Obligations and that the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured;
- (B) Any settlement or discharge under this Mortgage between the Mortgagee and the Owner shall be conditional upon no security or payment to the Mortgagee or any other Pari Passu Secured Party by the Owner or any other Person being avoided or set-aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force, and if such condition is not satisfied, the Mortgagee shall be entitled to recover from the Owner on demand the value of such security or the amount of any such payment as if such settlement or discharge had not occurred;

³ To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- (C) The security created by this Mortgage shall be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Mortgagee without prior recourse to, the security created by any of the other Pari Passu Documents, or by any present or future collateral instruments, right or remedy held by or available to the Mortgagee, any of the other Pari Passu Secured Parties or any Person acting on their behalf or any right or remedy of the Mortgagee, the other Pari Passu Secured Parties, or any Person acting on their behalf thereunder; and
- (D) The rights of the Mortgagee under this Mortgage and the security hereby constituted shall not be prejudiced or affected by any act, omission, matter or thing which, but for this provision, might operate to impair, affect or discharge such rights and security, including without limitation, and whether or not known to or discoverable by the Owner, the Mortgagee, any of the other Pari Passu Secured Parties or any other Person:
 - (i) any time or waiver granted to, or composition with, the Owner, the Company, any of the Guarantors or any other Person; or
 - (ii) the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against the Owner, the Company, any of the Guarantors or any other Person; or
 - (iii) any legal limitation, disability, dissolution, incapacity or other circumstances relating to the Owner, the Company, any of the Guarantors or any other Person; or
 - (iv) any amendment or supplement to any Pari Passu Document; or
 - (v) the unenforceability, invalidity or frustration of any obligations of the Owner, the Company, any of the Guarantors or any other Person under any Pari Passu Document.
- 5. <u>Affirmative Covenants and Insurances</u>. The Owner further covenants with the Mortgagee and undertakes at all times until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations:
 - (A) [To maintain its qualification in good standing as a foreign maritime entity under the laws of []] 4;
- (B) To insure and keep the Vessel insured or cause or procure the Vessel to be insured and to be kept insured at no expense to the Mortgagee as provided in the Pari Passu Documents;

⁴ To be revised accordingly for an Owner that is organized and existing under the laws of the flag state and does not need to qualify as a foreign maritime entity.



- (D) The Owner will not change or permit the change of the technical or the commercial management of the Vessel in violation of the Pari Passu Documents;
- (E) To pay and discharge when due and payable, from time to time, all material taxes, assessments, governmental charges, fines and penalties lawfully imposed on the Vessel or any income therefrom to the extent required by the Pari Passu Documents;
- (F) To keep the Vessel in a good and efficient state of repair so as to maintain its present class with [] (or such other classification society of like standing) and so as to comply with the provisions of all laws, regulations and requirements (statutory or otherwise) from time to time applicable to vessels registered under the laws and flag of [], including, without limitation, to obtain all necessary ISM Documentation and to comply with the provisions of both the ISM Code and the ISPC Code;
- (G) To submit or to cause the Vessel to be submitted to such periodical or other surveys as may be required for classification purposes and to supply to the Mortgagee upon request copies of all survey reports and class certificates issued in respect thereof;
- (H) If an Event of Default shall have occurred and be continuing, to permit or to cause the Mortgagee to be permitted by surveyors or other Persons appointed by it on its behalf to board the Vessel at all reasonable times for the purpose of inspecting its condition or for the purpose of satisfying themselves in regard to proposed or executed repairs and to afford all proper facilities aboard the Vessel for such inspections (in a manner and at a time not to interfere with the normal operation of the Vessel);
- (I) (i) To pay and discharge or cause to be paid and discharged all debts, damages and liabilities whatsoever which have given or may give rise to maritime or possessory Liens on or claims enforceable against the Vessel except for Liens permitted under the Pari Passu Documents and (ii) in event of arrest of the Vessel pursuant to legal process or in event of its detention in exercise or purported exercise of any such Lien as aforesaid to procure the release of the Vessel from such arrest or detention within fifteen (15) days of receiving notice thereof by providing bail or otherwise as the circumstances may require;
- (J) Not to employ the Vessel or suffer its employment in any trade or business which is forbidden by applicable law or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation or to destruction, seizure or confiscation and in event of hostilities in any part of the world (whether war be declared or not) not to employ the Vessel or suffer its employment in carrying any contraband goods or to enter or trade to or to

continue to trade in any zone after it is declared a war zone by any government or by the Vessel's war risk insurers unless the Mortgagee shall have first given its consent thereto in writing and the Owner at its expense shall have obtained such special insurance coverage as to extend to such voyage;

- (K) Promptly to furnish or to use its best efforts to cause promptly to be furnished to the Mortgagee, to the extent not prohibited by any obligation of confidentiality, all such information as the Mortgagee may from time to time reasonably request regarding the Vessel, its employment, position and engagements, particulars of all towages and salvages and copies of all charters and other contracts for its employment or otherwise howsoever pertaining to the Vessel;
- (L) Promptly after learning of the same to notify or cause to be notified to the Mortgagee forthwith by electronic means (thereafter confirmed by letter) of:
 - (i) any arrest or requisition of the Vessel or the exercise or purported exercise of any Lien on the Vessel or its Earnings; and
 - (ii) any occurrence or circumstances forming the basis of any material environmental claims.
- (M) To keep or to cause to be kept proper books of account of the Owner in respect of the Vessel and the Earnings and, if requested by the Mortgagee, to make such books available for inspection on behalf of the Mortgagee;
- (N) To keep the Vessel duly documented as a [] flag vessel under [] laws and the regulations in effect thereunder from time to time, as amended, except as otherwise permitted in accordance with the Pari Passu Documents;
- (O) Not, unless expressly permitted by the terms of the Pari Passu Documents, to sell, abandon or otherwise dispose of the Vessel or any interest therein or to suffer the disposition of any thereof;
- (P) To pay promptly to the Mortgagee all moneys (including reasonable fees and expenses of counsel) whatsoever which the Mortgagee shall or may expend, be put to or become liable for, in or about the protection, maintenance or enforcement of the security created by this Mortgage or in or about the exercise by the Mortgagee of any of the powers vested in it hereunder;
- (Q) To comply with and satisfy all the requisites and formalities established by the laws of [] to perfect this Mortgage as a legal, valid and enforceable first and preferred mortgage lien upon the Vessel and upon all additions, improvements and replacements made in or to the same, in order to secure the Pari Passu Obligations and to furnish to the Mortgagee from time to time such proofs as the Mortgagee may reasonably request for its satisfaction with respect to the compliance by the Owner with the provisions of this Section 5(P); and

(R) To place or to cause to be placed and at all times and places to retain or to cause to be retained a properly certified copy of this Mortgage on board the Vessel with its papers and cause this Mortgage to be exhibited to any and all Persons having business with the Vessel which might give rise to any Lien thereon other than Liens permitted under the Pari Passu Documents, and to any representative of the Mortgagee on demand; and to place and keep or to cause to be placed and keep prominently displayed in the chart room and in the Master's cabin of the Vessel a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space not less than six inches wide by nine inches high, reading as follows:

" NOTICE OF MORTGAGE

This Vessel is owned by [] and is subject to a First Preferred Mortgage in favor of CITIBANK, N.A., as Pari Passu Collateral Agent, as Mortgagee under the authority of [the Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended] ⁵. Under the terms of the said First Preferred Mortgage, neither the Owner nor any charterer nor the Master of this Vessel nor any other person has any power, right or authority whatever to create, incur or permit to be imposed upon this Vessel any lien or encumbrance except for the lien of this Mortgage, and Liens permitted under the Pari Passu Documents."

- 6. Mortgagee's Right to Cure. Without prejudice to any other rights, powers and remedies of the Mortgagee hereunder:
- (i) in the event that the provisions relating to the maintenance of insurance on the Vessel under the Pari Passu Documents or any of them shall not be complied with, the Mortgagee shall be at liberty, but not obligated and as often as may be necessary, to cure any such noncompliance, including, without limitation, to effect and thereafter to replace, maintain and renew all such insurances upon the Vessel as it in its sole discretion may deem necessary or advisable in order to procure the compliance with such provisions or alternatively, to require the Vessel (at the Owner's risk) to remain in, or to proceed to and remain in, a port designated by the Mortgagee until such provisions are fully complied with;
- (ii) in the event that the provisions of Sections 5(C), 5(F) and/or 5(G), and/or 5(J) and/or 5(N) hereof or any of them shall not be complied with, the Mortgagee shall be at liberty, but not obligated and as often as may be necessary, to arrange for the carrying out of such repairs, changes and/or surveys as it deems reasonably expedient or necessary in order to procure the compliance with such provisions; and

To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

(iii) in the event that the provisions of Section 5(I) hereof or any of them shall not be complied with, the Mortgagee shall be at liberty, but not obligated and as often as may be necessary, to pay and discharge all such debts, damages and liabilities as are therein mentioned and/or to take any such measures as it deems reasonably expedient or necessary for the purpose of securing the release of the Vessel in order to procure the compliance with such provisions.

Any and all reasonable expenses incurred by the Mortgagee (including reasonable fees and expenses of counsel) in respect of its performances under the foregoing sub-sections (i), (ii) and (iii) shall be paid by the Owner on demand and shall constitute Pari Passu Obligations hereunder.

- 7. Events of Default and Remedies . If an Event of Default shall have occurred and be continuing, the Mortgagee shall have the right, subject to and in accordance with the terms of the Intercreditor Agreement, to:
 - (i) demand payment by written notice to the Owner of the Pari Passu Obligations, whereupon such payment by the Owner to the Mortgagee shall be immediately due and payable, anything contained in any Pari Passu Document to the contrary notwithstanding and without prejudice to any other rights and remedies of the Mortgagee or the other Pari Passu Secured Parties under any Pari Passu Document;
 - (ii) at any time and as often as may be necessary, take any such action as the Mortgagee may in its discretion deem necessary or advisable for the purpose of protecting the security created by this Mortgage and each and every expense or liability (including reasonable fees and expenses of counsel) so incurred by the Mortgagee in or about the protection of such security shall be repayable to it by the Owner promptly after demand, and shall constitute Pari Passu Obligations hereunder. The Owner shall promptly execute and deliver to the Mortgagee such documents or cause promptly to be executed and delivered to the Mortgagee such documents, if any, and shall promptly do and perform such acts, if any, as in the reasonable opinion of the Mortgagee or its counsel may be necessary or advisable to facilitate or expedite the protection, maintenance and enforcement of the security created by this Mortgage;
 - (iii) exercise all the rights and remedies in foreclosure and otherwise given to the Mortgagee by any applicable law, including, without limitation, those under the provisions of [Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended] ⁶;

⁶ To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- (iv) take possession of the Vessel, at any time wherever the same may be, without prior demand and without court decision or legal process (when permissible under applicable law) and without being responsible for loss or damage (except to the extent such loss or damage result from the gross negligence, bad faith, or willful misconduct of the Mortgagee, as determined by a court of competent jurisdiction in a final and non appealable decision), and the Owner or other person in possession forthwith upon demand of the Mortgagee shall surrender to the Mortgagee possession of the Vessel. At the request of the Mortgagee, the Owner shall instruct officers and other senior personnel to remain on board to operate the Vessel for a reasonable period of time. The Mortgagee may, without being responsible for loss or damage (except to the extent such loss or damage result from the gross negligence, bad faith, or willful misconduct of the Mortgagee, as determined by a court of competent jurisdiction in a final and nonappealable decision), hold, lay up, lease, charter, operate or otherwise use the Vessel for such time and upon such terms as it may deem to be for its best advantage, and demand, collect and retain all hire, freights, earnings, issues, revenues, income, profits, return premiums, salvage awards or recoveries, recoveries in general average, and all other sums due or to become due in respect of the Vessel or in respect of any insurance thereon from any person whomsoever, accounting only for the net profits, if any, arising from such use of the Vessel, and charging upon all receipts from the use of the Vessel or from the sale thereof by court proceedings or pursuant to Section 7(ix) below), all costs, expenses, charges, damages or losses by reason of such use, provided that the Mortgagee provides the Owner with a final accounting. If at any time the Mortgagee shall avail itself of the right herein given it to take the Vessel, the Mortgagee shall have the right to dock or store the Vessel for a reasonable time at any dock, pier or other premises of the Owner without charge, or to dock or store the Vessel at any other place at the cost and expense of the Owner. The Mortgagee shall have the right to require the Owner to deliver, and the Owner shall on demand, at its own cost and expense, deliver to the Mortgagee the Vessel as demanded; and the Owner hereby irrevocably instructs the master of the Vessel so long as this Mortgage is outstanding to deliver the Vessel to the Mortgagee as demanded;
- (v) require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be forthwith delivered to such adjusters, brokers and/or other insurers as the Mortgagee may nominate;
- (vi) collect, recover, compromise and give a good discharge for all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of the Vessel, the Earnings or Requisition Compensation or any part thereof, and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Mortgagee in its absolute discretion deems necessary or advisable, and, in the case of the Insurances, to permit any brokers through whom collection or recovery is effected to charge the usual brokerage therefor;

- (vii) discharge, compound, release or compromise claims against the Owner in respect of the Vessel, the Earnings or Requisition Compensation or any part thereof which have given or may give rise to any charge or Lien or other claim on the Vessel, the Earnings or Requisition Compensation or any part thereof or which are or may be enforceable by proceedings against the Vessel;
- (viii) take appropriate judicial proceedings for the foreclosure of this Mortgage and/or for the enforcement of the Mortgagee's rights hereunder or otherwise; recover judgment for any amount due by the Owner under the Pari Passu Documents and collect the same out of any property of the Owner;
- (ix) as permitted by applicable laws, and without being responsible for loss or damage, sell the Vessel, free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract (without necessity of bringing the Vessel to the place designated for such sale) at such time and place and upon such terms as the Mortgagee in its absolute discretion may determine with power to postpone any such sale and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with the power, where the Mortgagee purchases the Vessel, to make payment of the sale price by making an equivalent reduction in the amount of the Pari Passu Obligations. In the event of a public auction, the Mortgagee shall give the Owner notice of the time and place of any public auction with a general description of the property in the following manner:
 - (i) by publishing such notice for ten (10) consecutive days in the Wall Street Journal and another daily newspaper of general circulation published in New York City;
 - (ii) if the place of sale should not be New York City, then also by publication of a similar notice in a daily newspaper, if any, published at the place of sale; and
 - (iii) by mailing a similar notice to the Owner at its last known address and to any other known mortgagee.

If the sale shall be by private sale, the Mortgagee shall give notice of the time and place of such private sale at least three (3) Business Days prior to the proposed date of such sale by mailing such notice to the Owner at its last known address. Each of the Owner and the Mortgagee agrees that any sale made in accordance with the terms of this Subsection 7(ix) is deemed to be made in a commercially reasonable manner;

- (x) pending sale of the Vessel (either directly or indirectly) as permitted by the applicable laws, manage, charter, lease, insure, maintain and repair the Vessel and to employ, sail or lay up the Vessel upon such terms, in such manner and for such period as the Mortgagee may reasonably deem expedient, and for any and/or all of the purposes aforesaid the Mortgagee shall be entitled to do all acts and things incidental or conducive thereto and in particular to enter into such arrangements respecting the Vessel, its insurance, management, maintenance, repair, classification and employment in all respects as if the Mortgagee were the owner of the Vessel, without being responsible for loss or damage (except to the extent such loss or damage results from the gross negligence, bad faith, or willful misconduct of the Mortgagee, as determined by a court of competent jurisdiction in a final and non appealable decision);
- (xi) recover from the Owner on demand any such losses as may be incurred by the Mortgagee in or about the exercise of the powers vested in the Mortgagee under Section 7(x) above;
- (xii) recover from the Owner on demand all reasonable expenses, payments and disbursements (including fees and expenses of counsel) incurred by the Mortgagee in or about or incidental to the exercise by it of any or all of the powers vested in it hereunder; and
- (xiii) any sale of the Vessel in accordance with the terms of this Mortgage, whether under the power of sale hereby granted or any judicial proceedings, shall operate to divest all right, title and interest of any nature whatsoever of the Owner therein and thereto and shall bar any claim from the Owner, its successors and assigns, and all persons claiming by, through or under them. No purchaser shall be bound to inquire whether notice has been given, or whether any default has occurred, or as to the propriety of the sale, or as to the application of the proceeds thereof. In the case of any such sale, the Mortgagee shall be entitled, for the purpose of making settlement or payment for the property purchased, to use and apply the Pari Passu Obligations hereby secured in order that there may be credited against the amount remaining due and unpaid thereon the sums payable out of the net proceeds of such sale to the Mortgagee with respect to the Pari Passu Obligations after allowing for the costs and expense of sale and other charges; and thereupon such purchaser shall be credited, on account of such purchase price, with the net proceeds that shall have been so credited with respect to the Pari Passu Obligations. At any such sale, the Mortgagee may bid for and purchase such property and upon compliance with the terms of sale may hold, retain and dispose of such property without further accountability therefor.
- (xiv) The Mortgagee is hereby appointed attorney-in-fact of the Owner upon the happening and continuance of any Event of Default to execute and deliver to any

purchaser aforesaid, and is hereby vested with full power and authority to make, in the name and on behalf of the Owner, a good conveyance of the title to the Vessel so sold. In the event of a sale of the Vessel under any power herein contained, the Owner will, if and when required by the Mortgagee, execute such form of conveyance of the Vessel and other related documents, as the Mortgagee may direct or approve. The powers and authority granted to the Mortgagee herein have been given for a valuable consideration and are hereby declared to be irrevocable.

Whenever any right to enter and take possession of the Vessel accrues to the Mortgagee, it may require the Owner to deliver, and the Owner shall on demand, at its own cost and expense, deliver to the Mortgagee the Vessel as demanded. In such circumstances, the Owner also agrees to deliver to the Mortgagee on its request all insurance class certificates and surveys, flag state certificates, trading certificates, compliance Certificates, plans and specifications and any other documents or instruments relating to the Vessel.

In case the Mortgagee shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Mortgagee, then and in every such case the Owner and the Mortgagee shall be restored to their former positions and rights hereunder with respect to the property, subject or intended to be subject to this Mortgage, and all rights, remedies and powers of the Mortgagee shall continue as if no such proceedings had been taken.

8. <u>Application of Proceeds</u>. The proceeds of any sale made either under the power of sale granted to the Mortgagee hereunder or under a judgment or decree in any judicial proceedings for the foreclosure of this Mortgage or for the enforcement of any remedy granted to the Mortgagee hereunder, any net earnings arising from the management, charter or other use of the Vessel by the Mortgagee under any of the powers herein contained or by law provided, the proceeds of any and all Insurances and any claims for damages on account of the Vessel or the Owner of any nature whatsoever and any Requisition Compensation, shall be applied in accordance with the terms of the Intercreditor Agreement.

In the event that the proceeds are insufficient to pay in full the Pari Passu Obligations, the Mortgagee shall be entitled to collect the balance from the Owner or any other Person liable therefor.

9. No Waiver. No delay or omission of the Mortgagee to exercise any right or power or remedy vested in it under any Pari Passu Document shall impair such right or power or be construed as a waiver thereof or as acquiescence in any default by the Owner hereunder, nor shall the acceptance by the Mortgagee of any payments in connection with this Mortgage from any source be deemed a waiver hereunder. No single or partial exercise by the Mortgagee of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Mortgagee to enforce any right, power or remedy shall preclude any

other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy, nor shall the giving by the Mortgagee of any consent to any act which by the terms of this Mortgage requires such consent prejudice the right of the Mortgagee to give or withhold consent to the doing of any other similar act.

- 10. <u>Delegation of Power</u>. The Mortgagee shall be entitled at any time and as often as may be expedient to delegate all or any of the powers and discretions vested in it by this Mortgage (including the power vested in it by virtue of Section 12 hereof) in such manner and upon such terms and to such Persons as the Mortgagee in its absolute discretion may deem advisable.
- 11. <u>Indemnity</u>. Without prejudice to any other rights or remedies of the Mortgagee under any Pari Passu Document, the Owner hereby agrees to indemnify, defend and save and hold harmless, the Mortgagee and each of its officers, directors, employees, agents and advisors (each, an "<u>Indemnified Party</u>") from and against, and shall pay on demand any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and expenses of counsel) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or resulting from this Mortgage or the performance or exercise of any rights or remedies hereunder or otherwise in connection with the Vessel (including, without limitation, its operations or any environmental claims in respect thereof), the Earnings, Requisition Compensation and Insurances, or otherwise howsoever arising out of or in connection with the enforcement of the Mortgagee's rights and remedies hereunder, under any Pari Passu Document, except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from an Indemnified Party's gross negligence, bad faith or willful misconduct.

12. Power of Attorney.

(A) The Owner hereby irrevocably appoints the Mortgagee as its attorney-in-fact, until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, to do in the name of the Owner all acts which the Owner, or its successors or assigns, could do in relation to the Vessel, including without limitation, to demand, collect, receive, compromise, settle and sue for (insofar as the Mortgagee lawfully may) all freights, hire, earnings, issues, revenues, income and profits of the Vessel, and all amounts due from underwriters under the Insurances as payment of losses or as return premiums or otherwise, salvage awards and recoveries, recoveries in general average or otherwise, and all other sums due or to become due to the Owner in respect of the Vessel, and to make, give and execute in the name of the Owner, acquittance, receipts, releases or other discharges for the same, whether under seal or otherwise, to take possession of, sell or otherwise dispose of or manage or employ, the Vessel, to execute and deliver charters and a bill of sale with respect to the Vessel, and to endorse and accept in the name of the Owner all checks, notes, drafts, warrants, agreements and all other instruments in writing with respect to the foregoing; PROVIDED, HOWEVER, that, unless the context otherwise permits under this Mortgage, such power shall not be exercisable by or on behalf of the

Mortgagee unless and until an Event of Default has occurred and is continuing. The power of attorney hereby conferred shall be a general power of attorney and the Owner ratifies and confirms, and agrees to ratify and confirm, any deed, assurance, agreement, instrument, act or thing which the Mortgagee may execute or do pursuant thereto. The powers and authority granted to the Mortgagee herein have been given for a valuable consideration and are hereby declared to be irrevocable.

- (B) The exercise of the power granted in this Section 12 by or on behalf of the Mortgagee shall not require any Person dealing with the Mortgagee to conduct any inquiry as to whether any Event of Default has occurred and is continuing, nor shall such Person be in any way affected by notice that any Event of Default has not occurred nor is continuing, and the exercise by the Mortgagee of such power shall be conclusive evidence of its right to exercise the same.
- 13. <u>Appointment of Receiver</u>. If any legal proceedings shall be taken to enforce any right under this Mortgage, the Mortgagee shall be entitled as a matter of right to the appointment of a receiver of the Vessel and of the freights, hire, earnings, issues, revenues, income and profits due or to become due and arising from the operation thereof.
- 14. Commencement of Proceedings/Appearance in Proceedings . (a) The Mortgagee shall have the right to commence proceedings in the courts of any country having competent jurisdiction and in particular the Mortgagee shall have the right to arrest and take action against the Vessel at whatever place the Vessel shall be found lying and the Owner agrees that for the purpose of proceedings against the Vessel any writ, notice, judgment or other legal process or documents may be served upon the Master of the Vessel (or upon anyone acting as the Master) and that such service shall be deemed good service on the Owner for all purposes.
- (b) The Owner authorizes and empowers the Mortgagee or its appointees or any of them, and hereby appoints the Mortgagee as its attorney-in-fact, to appear in the name of the Owner, its successors and assigns, in any court of any country or nation of the world where a suit is pending against the Vessel because of or on account of an alleged Lien against the Vessel from which the Vessel has not been released and to take such proceedings as to them or any of them may seem proper towards the defense of such suit and the purchase or discharge of such Lien. All expenditures made or incurred by them or any of them for the purpose of such defense or purchase or discharge shall be a debt due from the Owner, its successors and assigns, to the Mortgagee, and shall be secured by the lien of this Mortgage in like manner and extent as if the amount and description thereof were written herein. The Mortgagee agrees not to exercise the powers given to it in this Section 14(b) unless an Event of Default shall have occurred and be continuing.

The Mortgagee shall be entitled (after an Event of Default shall have occurred and be continuing) to settle, compromise, refer to arbitration or mediation, or institute any suit or other proceeding respecting any Lien or other claim against the Vessel, in each case at its sole discretion and without any consent or approval of the Owner. Any agreements made by the Mortgagee under this Section 14 shall be deemed made in good faith and commercially reasonable by the Owner.

- 15. Partial Invalidity. In the event that any provision or provisions of this Mortgage shall be declared invalid, void or otherwise inoperative by any present or future court of competent jurisdiction in any country, the Owner will, without prejudice to any other right and remedy of the Mortgagee under any Pari Passu Document, execute and deliver such other and further instruments and do such things as in the reasonable opinion of the Mortgagee or its counsel will be necessary or advisable to carry out the true intent and spirit of this Mortgage. In any event, any such declaration of partial invalidity shall not affect the validity of any other provision or provisions of this Mortgage, or the validity of this Mortgage as a whole.
- 16. <u>Further Assurances</u>. The Owner hereby undertakes at its own expense from time to time to execute, sign, perfect, do and (if required), register every such further assurance, document, act or thing as in the reasonable opinion of the Mortgagee may be necessary or desirable for the purpose of more effectually mortgaging and charging the Vessel or perfecting the security constituted or intended to be constituted by this Mortgage or contemplated by any Pari Passu Document.
- 17. <u>Cumulative Remedies</u>. Each and every power and remedy in this Mortgage specifically given to the Mortgagee shall be in addition to every other power and remedy herein or in any Pari Passu Document specifically given or now or hereafter existing at law, in equity, admiralty, or by statute, and each and every power and remedy whether specifically in this Mortgage or in any Pari Passu Document given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of any such power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other power or remedy under any Pari Passu Document.
- 18. Recordation of Mortgage. [For the purpose of recording this Mortgage as required by Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended; the parties have agreed this Mortgage is made "pursuant to agreement" within the meaning of Section 106A(3). For the purposes of said section 106(A)(3),(x) the agreed-upon maximum amount (representing all the debts and obligations arising or that may arise under the Guarantees secured by this Mortgage) is Three Billion United States Dollars US\$3,000,000,000 which is comprised of (i) the aggregate principal amount of Six Hundred Million United States Dollars (\$600,000,000.00) under the Revolving Credit Agreement, (ii) the aggregate principal amount of Eight Hundred Fifty Million United States Dollars (\$850,000,000.00) under the Term Loan Agreement, (iii) the aggregate principal amount of Eight Hundred Fifty Million United States Dollars (\$850,000,000.00) under the Indenture, (iv) the contingent amount of Three Hundred Million United States Dollars (\$300,000,000.00), relating to certain hedging obligations, obligations in respect of certain cash management agreements and losses resulting from fluctuations in exchange rates related to letters of credit denominated in currencies other than US Dollars, and (v) the amount of Four Hundred Million United States Dollars (\$400,000,000.00) relating to interest, fees, expenses and other costs (v) the specified period is the period from and

including June 3, 2013 through and including June 3, 2030, and (z) June 3, 2030 is the date of termination of this Mortgage. It is not intended that this Mortgage shall include property other than the Vessel and it shall not include property other than the Vessel as the term "vessel" is used in subdivision 1 of Section 106 of Chapter 3 of the Title 21 of the Liberian Code of Laws of 1956, as amended. Notwithstanding the foregoing, for property other than the Vessel, if any should be determined to be covered by this Mortgage, the discharge amount is zero point zero one percent (0.01%) of the total amount.] ⁷

- 19. No Waiver of Preferred Status. Anything herein to the contrary notwithstanding, it is intended that nothing herein shall waive the preferred status of this Mortgage under the laws of [] or under the corresponding provisions of any other jurisdiction in which it is sought to be enforced and that, if any provision or portion thereof herein shall be construed to waive the preferred status of this Mortgage, then such provision to such extent shall be void and of no effect.
- 20. <u>Counterparts</u>. This Mortgage may be executed in any number of counterparts each of which shall be an original but such counterparts shall together constitute but one and the same instrument.
- 21. <u>Notices</u>. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party at:

To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

If to the Mo	ortgagee :	
CITIBANI	ζ, N.A.	
[]	
]	
[]	
Attention:	[]
Facsimile:	⊥ [-

or in any case at such other address as such party may hereafter notify the other party hereto in writing.

The Owner or the Mortgagee, may in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 22. Rights of Owner. Unless and until one or more Events of Default shall have occurred and be continuing, to the extent not prohibited by, and subject to the terms of, the Pari Passu Documents, the Owner (a) shall be suffered and permitted to retain actual possession and use of the Vessel, including, without limitation, the right to enter into drilling contracts, charters and other similar agreements with regard to the Vessel and (b) shall have the right, from time to time in its discretion, and without application to the Mortgagee, and without obtaining a release thereof by the Mortgagee, to dispose of, free from the Lien hereof, any boilers, engines, machinery, masts, spars, sails, rigging, boats, anchors, cables, chains, tackle, apparel, furniture, fittings, equipment or any other appurtenances of the Vessel that are no longer useful, necessary, profitable or advantageous in the operation of the Vessel, first or simultaneously replacing the same by new or used boilers, engines, machinery, masts, spars, sails, rigging, boats, anchors, cables, chains, tackle, apparel, furniture, fittings, equipment or any other appurtenances of substantially equal value, which shall forthwith become subject to the Lien of this Mortgage.
- 23. <u>Waiver</u>; <u>Amendment</u>. No amendment, modification or waiver of any provision of this Mortgage, and no consent to any departure by the Owner herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.
- 24. <u>Successors and Assigns</u>. All the covenants, promises, stipulations and agreements of the Owner and all the rights and remedies of the Mortgagee contained in this Mortgage shall bind the Owner, its successors and assigns, and shall inure to the benefit of the Mortgagee, its successors and assigns, whether so expressed or not.
 - 25. Applicable Law. This Mortgage shall be governed by, and construed in accordance with, the laws of [].

- 26. <u>Headings</u>. In this Mortgage, section headings are inserted for convenience of reference only and shall be ignored in the interpretation of this Mortgage.
 - 27. Mortgagee.
 - 27.1 The Mortgagee shall not be required or responsible:
- (A) to record, register, document, file, perfect, protect, maintain or renew any security interest in the Vessel or this Mortgage and it is understood for the avoidance of doubt that the Owner shall be solely responsible for any and all of the foregoing; and
- (B) to monitor, observe, oversee or investigate the operations, status or activities of the Vessel or the Owner's compliance and performance with any of the terms, conditions, covenants and agreements set forth in this Mortgage.
- 27.2 The Mortgagee shall be entitled to all of the rights, protections, privileges and immunities accorded to it under Section 3.4 of the Intercreditor Agreement.
- 28. <u>Force Majeure</u>. The Mortgagee shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Mortgagee that prevents the Mortgagee from performing such act or fulfilling such duty, obligation or responsibility hereunder (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire, facsimile or other wire or communication facility).
- 29. <u>Conflict.</u> In the event of a direct conflict between this Mortgage and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Mortgage sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Mortgage as not being in direct conflict with the Intercreditor Agreement.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Exhibit I Page 24

IN WITNESS WHEREOF, the Owner has executed this Mortgage by its duly authorized representative on the day and year first above written.

	[NAME OF OWNER]	
	Ву:	
	Name:	
	Title:	
[Signature Page to First Preferred M	Iortgage]	

ACKNOWLEDGMENT OF MORTGAGE

STATE OF)	
COUNTY OF	ss:)	
depose and say that (s)	he resides at [•], that], before me personally appeared [•], to me known, who, being by me duly sworn, did t (s)he is a/an [•] of [•], the company described in and which executed the foregoing First ner name thereto pursuant to authority granted to him/her by the [•] of said company.
		Notary Public

EXHIBIT A

Revolving Credit Agreement, [together with form of [together with form of Note, and form of guarantee] but without other annexes, schedules or exhibits

[See attached.]

Exhibit A-1

EXHIBIT B

Term Loan Agreement, [[together with form of Note, and form of guarantee] but without other annexes, schedules or exhibits [See attached.]

Exhibit B-1

EXHIBIT C

Indenture, [together with form of Note] but without other annexes, schedules or exhibits

[See attached.]

Exhibit C-1

EXHIBIT D

Form of Intercreditor Agreement

[See attached.]

Exhibit D-1

EXHIBIT K

FORM OF NOTICE OF BORROWING

[Date]

Citibank, N.A.,
as Administrative Agent for the Lenders party
to the Term Loan Agreement
referred to below
1516 Brett Road, Ops III
New Castle, DE 19720

Attention: Citigroup Global Loans

Facsimile: (212) 994-0961

Email: global.loans.support@citi.com

Ladies and Gentlemen:

The undersigned, Pacific Drilling S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), refers to the Term Loan Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Term Loan Agreement", the terms defined therein being used herein as therein defined), among the Borrower, the lenders from time to time party thereto (the "Lenders"), and Citibank, N.A., as Administrative Agent for such Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.02(a) of the Term Loan Agreement, that the undersigned hereby requests the Borrowing under the Term Loan Agreement, and in that connection set forth below is the information relating to the Borrowing (the "Proposed Borrowing") as required by Section 2.02(a) of the Term Loan Agreement:

- (i) The aggregate principal amount of the Proposed Borrowing is \$...
- (ii) The Business Day of the Proposed Borrowing is . .
- (iii) The Type of Loan comprising the Proposed Borrowing is . 2
- (iv) The proceeds of the Proposed Borrowing shall be deposited in the following account: Account No. [], Account Name [].
- (v) [The initial Interest Period for the Proposed Borrowing is [month(s)].] ³

Shall be a Business Day and the Effective Date at least three Business Days after the date hereof, <u>provided</u> that any such notice shall be deemed to have been given on a certain day only if given before 11:00 a.m. (New York time) on such day.

² If the Type of Loan is not specified, the Loan shall be made as a Base Rate Loan.

³ Insert if the Proposed Borrowing is a Eurodollar Rate Loan.

Exhibit	K
Page	2

Very truly yours,
PACIFIC DRILLING S.A.
By:
Name: Title:

FORM OF NOTE

New York, New York , 20

FOR VALUE RECEIVED, PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), hereby promises to pay to or its registered assigns (the "Lender"), in lawful money of the United States of America in immediately available funds, at the office of Citibank, N.A. (the "Administrative Agent"), located at 1516 Brett Road, Ops III, New Castle, DE 19720, on the [Maturity Date][Incremental Maturity Date] (as defined in the Term Loan Agreement referred to below) the principal sum of DOLLARS (\$) or, if less, the unpaid principal amount of all [Term Loans][Other Term Loans] (as defined in the Term Loan Agreement) made by the Lender pursuant to the Term Loan Agreement, payable at such times and in such amounts as are specified in the Term Loan Agreement.

The Borrower also promises to pay interest on the unpaid principal amount of each [Term Loan] [Other Term Loan] made by the Lender in like money at said office from the date hereof until paid at the rates and at the times provided in Section 2.06 of the Term Loan Agreement.

This Note is one of the Notes referred to in the Term Loan Agreement, dated as of June 3, 2013, among the Borrower, the lenders from time to time party thereto (including the Lender), and the Administrative Agent (as amended, restated, modified and/or supplemented from time to time, the "Term Loan Agreement") and is entitled to the benefits thereof and of the other Loan Documents (as defined in the Term Loan Agreement). This Note is secured by the Security Documents (as defined in the Term Loan Agreement) and is entitled to the benefits of the Subsidiary Guaranty (as defined in the Term Loan Agreement). This Note is subject to voluntary prepayment and mandatory repayment prior to the [Maturity Date] [Incremental Maturity Date], in whole or in part, as provided in the Term Loan Agreement.

If an Event of Default (as defined in the Term Loan Agreement) shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Term Loan Agreement.

The Borrower hereby waives presentment, demand, protest or notice of any kind in connection with this Note.

EXH	IBIT	1

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

PACIFIC DRILLING S.A.	
By:	
Name:	
Title:	

FORM OF AUCTION PROCEDURES

This <u>Exhibit M</u> is intended to summarize certain basic terms of the modified Dutch auction procedures pursuant to and in accordance with the terms and conditions of <u>Section 2.13</u> of the Term Loan Agreement, of which this <u>Exhibit M</u> is a part. It is not intended to be a definitive statement of all of the terms and conditions of a modified Dutch auction, the definitive terms and conditions for which shall be set forth in the applicable offering document. None of the Administrative Agent, the Auction Manager, or any of their respective Affiliates makes any recommendation pursuant to any offering document as to whether or not any Lender should sell its Loans or Other Term Loans, as applicable, to the Borrower or any Subsidiary of the Borrower pursuant to any offering documents, nor shall the decision by the Administrative Agent or the Auction Manager (or any of their respective Affiliates) in its capacity as a Lender to sell its Loans or Other Term Loans, as applicable, to the Borrower or any Subsidiary of the Borrower be deemed to constitute such a recommendation. Each Lender should make its own decision as to whether to sell any of its Loans or Other Term Loans and as to the price to be sought for such Loans or Other Term Loans. In addition, each Lender should consult its own attorney, business advisor or tax advisor as to legal, business, tax and related matters concerning each Purchase Offer and the relevant offering documents. Capitalized terms not otherwise defined in this <u>Exhibit M</u> have the meanings assigned to them in the Term Loan Agreement.

(a) Notice Procedures . In connection with each Purchase Offer, the Borrower will provide notification to the Auction Manager (for distribution to the Lenders of the applicable Class(es)) of the Class or Classes of outstanding Loans or Other Term Loans (as determined by the Borrower in its sole discretion) that will be the subject of such Purchase Offer (each, an "Auction Notice"). Each Auction Notice shall contain (i) the maximum principal amount (calculated on the face amount thereof) of each Class of Loans or Other Term Loans that the Borrower or the applicable Subsidiary of the Borrower offers to purchase in such Purchase Offer (the "Auction Amount"), which shall be no less than \$10,000,000 (across all such Classes) (unless another amount is agreed to by the Administrative Agent); (ii) the range of discounts to par (the " Discount Range"), expressed as a range of prices (in increments of \$5) per \$1,000, at which the Borrower or such Subsidiary of the Borrower would be willing to purchase Loans or Other Term Loans of each applicable Class in such Purchase Offer; and (iii) the date on which such Purchase Offer will conclude, on which date Return Bids (as defined below) will be due by 1:00 p.m., New York time (as such date and time may be extended by the Auction Manager, the "Expiration Time"). Such Expiration Time may be extended for a period not exceeding three Business Days upon notice by the Borrower to the Auction Manager received not less than 24 hours before the original Expiration Time; provided, that only two extensions per offer shall be permitted. A Purchase Offer shall be regarded as a "failed purchase offer" in the event that either (x) the Borrower or the applicable Subsidiary of the Borrower withdraws such Purchase Offer in accordance with the terms hereof or as set forth in Section 2.13(b) of the Term Loan Agreement or (y) the Expiration Time occurs with no Qualifying Bids (as defined below) having been received. In the event of a failed purchase offer, the Borrower shall not be permitted to deliver a new Auction Notice prior to the date occurring three Business Days after such withdrawal or Expiration Time, as the case may be. Notwithstanding anything to the contrary contained herein, the Borrower shall not initiate any Purchase Offer by delivering an Auction Notice to the Auction Manager until after the conclusion (whether successful or failed) of the previous Purchase Offer (if any), whether such conclusion occurs by withdrawal of such previous Purchase Offer or the occurrence of the Expiration Time of such previous Purchase Offer.

- (b) Reply Procedures . In connection with any Purchase Offer, each Lender of the applicable Class wishing to participate in such Purchase Offer shall, prior to the Expiration Time, provide the Auction Manager with a notice of participation, in the form included in the applicable offering document (each, a "Return Bid") which shall specify (i) a discount to par that must be expressed as a price (in increments of \$5) per \$1,000 in principal amount of Loans or Other Term Loans (the "Reply Price") of the applicable Class within the Discount Range and (ii) the principal amount of Loans or Other Term Loans of the applicable Class, in an amount not less than \$1,000,000 or an integral multiple of \$1,000 in excess thereof, that such Lender offers for sale at its Reply Price (the "Reply Amount"). A Lender may submit a Reply Amount that is less than the minimum amount and incremental amount requirements described above only if the Reply Amount comprises the entire amount of the Loans or Other Term Loans of the applicable Class held by such Lender. Lenders may only submit one Return Bid per Class per Purchase Offer, but each Return Bid may contain up to three component bids, each of which may result in a separate Qualifying Bid and each of which will not be contingent on any other component bid submitted by such Lender resulting in a Qualifying Bid. In addition to the Return Bid, the participating Lender must execute and deliver, to be held in escrow by the Auction Manager, an assignment and acceptance in the form included in the offering document (each, an "Auction Assignment and Assumption"). The Borrower or the applicable Subsidiary of the Borrower will not purchase any Loans or Other Term Loans at a price that is outside of the applicable Discount Range, nor will any Return Bids (including any component bids specified therein) submitted at a price that is outside such applicable Discount Range be considered in any calculation of the Applicable Threshold Price (as defined below).
- (c) <u>Acceptance Procedures</u>. Based on the Reply Prices and Reply Amounts received by the Auction Manager, the Auction Manager, in consultation with the Borrower, will calculate the lowest purchase price (the "<u>Applicable Threshold Price</u>") for such Purchase Offer within the Discount Range for such Purchase Offer that will allow the Borrower or the applicable Subsidiary of the Borrower to complete the Purchase Offer by purchasing the full Auction Amount (or such lesser amount of Loans or Other Term Loans for which the Borrower or such Subsidiary of the Borrower has received Qualifying Bids). The Borrower or the applicable Subsidiary of the Borrower shall purchase Loans or Other Term Loans of the applicable Class from each Lender whose Return Bid is within the Discount Range and contains a Reply Price that is equal to or less than the Applicable Threshold Price (each, a "<u>Qualifying Bids</u>"). All Loans or Other Term Loans of the applicable Class included in Qualifying Bids (including multiple component Qualifying Bids contained in a single Return Bid) received at a Reply Price lower than the Applicable Threshold Price will be purchased at such applicable Reply Prices and shall not be subject to proration. Each participating Lender will receive notice of a Qualifying Bid as soon as reasonably practicable but in no case later than five Business Days from the date of the Expiration Time.
- (d) <u>Proration Procedures</u>. All Loans or Other Term Loans offered in Return Bids (or, if applicable, any component thereof) constituting Qualifying Bids at the Applicable Threshold Price will be purchased at the Applicable Threshold Price; <u>provided</u> that if the aggregate principal amount of all Loans or Other Term Loans of the applicable Class for which Qualifying Bids have been submitted in any given Purchase Offer at the Applicable Threshold Price would exceed the remaining portion of the Auction Amount (after deducting all Loans or Other Term Loans of the applicable Class to be purchased at prices below the Applicable Threshold Price), the Borrower or

the applicable Subsidiary of the Borrower shall purchase such Loans or Other Term Loans ratably based on the relative principal amounts offered by each Lender in an aggregate amount equal to the amount necessary to complete the purchase of the Auction Amount. No Return Bids or any component thereof will be accepted above the Applicable Threshold Price.

- (e) <u>Notification Procedures</u>. The Auction Manager will calculate the Applicable Threshold Price and post the Applicable Threshold Price and proration factor onto an internet or intranet site (including an IntraLinks, SyndTrak or other electronic workspace) in accordance with the Auction Manager's standard dissemination practices by 4:00 p.m. New York time on the Business Day during which the Expiration Time occurs. The Auction Manager will insert the principal amount of Loans or Other Term Loans of the applicable Class to be assigned and the applicable settlement date into each applicable Auction Assignment and Assumption received in connection with a Qualifying Bid. Upon the request of the submitting Lender, the Auction Manager will promptly return any Auction Assignment and Assumption received in connection with a Return Bid that is not a Qualifying Bid.
- (f) <u>Auction Assignment and Assumption</u>. Each Auction Notice and Auction Assignment and Assumption shall contain the following representations and warranties by the Borrower:

"No Default or Event of Default has occurred and is continuing, or would result from the purchase of any of the Loans in connection with this Purchase Offer.

The representations and warranties of the Borrower and each other Loan Party contained in <u>Section 6</u> of the Term Loan Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection herewith, are true and correct in all material respects, except for any representation or warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation or warranty is true and correct in all respects, on and as of the date hereof (it being understood and agreed that any representation or warranty which by its terms was made as of a specific earlier date was true and correct in all material respects as of such earlier date, except for any such representation or warranty that was qualified by materiality or reference to Material Adverse Effect, which such representation or warranty was true and correct in all respects as of such earlier date), and except that for purposes hereof, the representations and warranties contained in <u>Section 6.05(a)</u> of the Term Loan Agreement shall be deemed to refer to the most recent financial statements furnished pursuant to Section 7.03(a)(i) or (ii) of the Term Loan Agreement.

As of the date hereof, the Borrower represents and warrants that no Loan Party has any Borrower Restricted Information that both (a) has not been previously disclosed in writing to the Administrative Agent and the Lenders (other than because such Lender does not wish to receive such Borrower Restricted Information) prior to such time and (b) could reasonably be expected to have a material effect upon, or otherwise be material to, such Lender's decision to participate in the Purchase Offer."

(g) <u>Additional Procedures</u>. Once initiated by an Auction Notice, the Borrower or the applicable Subsidiary of the Borrower may withdraw a Purchase Offer only if no Qualifying Bid has been

received by the Auction Manager at the time of withdrawal. Any Return Bid (including any component bid thereof) delivered to the Auction Manager may not be withdrawn, modified, revoked, terminated or cancelled by a Lender. However, a Purchase Offer may become void if the conditions to the purchase set forth in Section 2.13 of the Term Loan Agreement are not met. The purchase price in respect of each Qualifying Bid for which purchase by the Borrower or the applicable Subsidiary of the Borrower is required in accordance with the foregoing provisions shall be paid directly by the Borrower or such Subsidiary of the Borrower to the respective assigning Lender on a settlement date as determined jointly by the Borrower and the Auction Manager (which shall be not later than ten Business Days after the date Return Bids are due). The Borrower shall execute each applicable Auction Assignment and Assumption received in connection with a Qualifying Bid. All questions as to the form of documents and eligibility of Loans or Other Term Loans that are the subject of a Purchase Offer will be determined by the Auction Manager, in consultation with the Borrower, and their determination will be final and binding so long as such determination is not inconsistent with the terms of Section 2.13 of the Term Loan Agreement or this Exhibit M. The Auction Manager's interpretation of the terms and conditions of the offering document, in consultation with the Borrower, will be final and binding so long as such interpretation is not inconsistent with the terms of Section 2.13 of the Term Loan Agreement or this Exhibit M. None of the Administrative Agent, the Auction Manager or any of their respective Affiliates assumes any responsibility for the accuracy or completeness of the information concerning the Borrower, the Loan Parties, or any of their respective Affiliates (whether contained in an offering document or otherwise) or for any failure to disclose events that may have occurred and may affect the significance or accuracy of such information. This Exhibit M shall not require the Borrower or any Subsidiary of the Borrower to initiate any Purchase Offer.

FORM OF AFFILIATE ASSIGNMENT NOTICE

Dated

Citibank, N.A., as Administrative Agent under the Term Loan Agreement referred to below 1516 Brett Road, Ops III New Castle, DE 19720

Attention: Citigroup Global Loans

Facsimile: (212) 994-0691

Email: global.loans.support@citi.com

Re: Term Loan Agreement, dated as of June 3, 2013, among Pacific Drilling S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), the Lenders party thereto from time to time and Citibank, N.A., as Administrative Agent (as amended, restated, modified and/or supplemented from time to time, the "Term Loan Agreement")

Ladies and Gentlemen:

(a)

The undersigned (the "Proposed Affiliate Assignee") hereby gives you notice, pursuant to Section 10.04(e)(iv) of the Term Loan Agreement, that:

it has entered into an agreement to purchase via assignment a portion of the Loans under the Term Loan Agreement,

- (b) the assignor in the proposed assignment is [],
 (c) immediately after giving effect to such assignment of the Loans (if accepted), the Proposed Affiliate Assignee will be an Affiliated Lender because it is, or is an Affiliate of, Quantum Pacific International Limited, a British Virgin Islands corporation,
- (d) the principal amount of Loans to be purchased by such Proposed Affiliate Assignee in the assignment contemplated hereby is: \$
- (e) the aggregate amount of all Loans held by such Proposed Affiliate Assignee and each other Affiliated Lender after giving effect to the assignment hereunder (if accepted) is \$ [], and
- (f) the proposed effective date of the assignment contemplated hereby is [, 20].

Very	truly	yours,
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[PROPOSED AFFILIATE ASSIGNEE]

By:	
Nar	ne:
Titl	e:
Address	:[
	Attention: [
	Facsimile No.: [
	E-mail: [

CREDIT AGREEMENT

among

PACIFIC DRILLING S.A., as Borrower,

VARIOUS LENDERS

and

CITIBANK, N.A., as Administrative Agent, and Issuing Lender

CITIGROUP GLOBAL MARKETS INC., GOLDMAN SACHS BANK USA,

and

DEUTSCHE BANK SECURITIES INC., as Joint Lead Arrangers and Joint Bookrunners,

BARCLAYS BANK PLC, as Joint Bookrunners

and

CITIGROUP GLOBAL MARKETS INC., as Syndication Agent

Dated as of June 3, 2013

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EXHIBIT N Form of Letter of Credit Request EXHIBIT O Form of Officer's Certificate EXHIBIT P Form of Management Agreement CREDIT AGREEMENT, dated as of June 3, 2013, among PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), the Lenders party hereto from time to time, and CITIBANK, N.A., as Administrative Agent (in such capacity, the "Administrative Agent"), and an Issuing Lender. All capitalized terms used herein and defined in Section 1 are used herein as therein defined.

WITNESSETH:

WHEREAS, the Borrower has requested that the Lenders extend credit to the Borrower in the form of Loans and Letters of Credit at any time on or after the Effective Date and from time to time prior to the Maturity Date, in an aggregate principal amount of Commitments equal to \$500,000,000; and

WHEREAS, subject to and upon the terms and conditions herein set forth, the Lenders are willing to make available to the Borrower the credit facility provided for herein;

NOW, THEREFORE, IT IS AGREED:

SECTION 1. Definitions and Accounting Terms.

1.01 <u>Defined Terms</u>. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

<u>"2013 Indenture"</u> shall mean the Indenture dated as of the date hereof, among the Borrower, Deutsche Bank Trust Company Americas, as trustee (in such capacity, the "Noteholder Agent"), and the Subsidiary Guarantors as guarantors thereunder (with such other guarantors as may thereafter be added from time to time).

- "Acquired Entity or Business" shall mean either (x) the assets constituting a business, division or product line of any Person not already a Restricted Subsidiary of the Borrower or (y) at least 51% of the Capital Stock or other equity interests of any such Person, which Person shall, as a result of such stock acquisition, become a Restricted Subsidiary of the Borrower (or shall be merged with and into the Borrower (so long as the Borrower is the surviving corporation) or a Restricted Subsidiary of the Borrower). For clarity, an Acquired Entity or Business does include the construction of a Rig.
- "Administrative Agent" shall have the meaning provided in the first paragraph of this Agreement, and shall include any successor thereto.
- "Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling (including, but not limited to, all directors and officers of such Person), controlled by, or under direct or indirect common control with, such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power (i) to vote 10% or more of the shares of securities having ordinary voting power for the election of directors (or equivalent governing body) of such Person or (ii) to direct or cause the direction of

the management and policies of such other Person, whether through the ownership of voting shares of securities, by contract or otherwise; provided, however, that neither the Administrative Agent nor any Affiliate thereof shall be considered an Affiliate of the Borrower or any Subsidiary thereof.

- "Agent Account" shall have the meaning provided in Section 9.12.
- "Agents" shall mean, collectively, the Administrative Agent and the Other Agents.
- "Agreement" shall mean this Credit Agreement, as modified, supplemented, amended, restated, extended or renewed from time to time.
- "<u>Alternative Currencies</u>" shall mean Naira, the lawful currency of the Federal Republic of Nigeria, and each other currency (other than Dollars) that is approved by the Administrative Agent and the applicable Issuing Lender in accordance with Section 3.01(c).
- "<u>Alternative Currency Equivalent Amount</u>" means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as reasonably determined by the Administrative Agent or the applicable Issuing Bank, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.
 - "Applicable Margin" shall mean the corresponding percentages per annum as set forth below based on the Leverage Ratio:

		Commitment	EURODOLLAR	
				Base
Pricing Level	Leverage Ratio	Fee	+	Rate +
I	Less than 2.50 to 1.00	0.70%	2.50%	1.50%
II	Greater than or equal to 2.50 to 1.00, but less than 3.50 to 1.00	0.80%	2.75%	1.75%
III	Greater than or equal to 3.50 to 1.00, but less than 4.50 to 1.00	0.90%	3.00%	2.00%
IV	Greater than or equal to 4.50 to 1.00	1.00%	3.25%	2.25%

The Applicable Margin shall be determined and adjusted quarterly on the date (each a "Calculation Date") two (2) Business Days after the day on which the Borrower provides the certificate of an Authorized Representative required by Section 9.01(f) for the most recently

ended fiscal quarter of the Borrower and shall be determined by reference to the Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date as reflected in the applicable Authorized Representative's certificate; provided that (a) the Applicable Margin shall be based on Pricing Level IV (i) for the calculation set forth in Section 4.01(a), until the first Calculation Date occurring after June 30, 2014 and (ii) for all other purposes, until the first Calculation Date occurring after the first full fiscal quarter after the Effective Date, and (b) if the Borrower fails to provide the certificate of an Authorized Representative as required by Section 9.01(f) for the most recently ended fiscal quarter of the Borrower preceding the applicable Calculation Date, the Applicable Margin from such Calculation Date shall be based on Pricing Level IV until such time as an appropriate Authorized Representative's certificate is provided, at which time the Pricing Level shall be determined by reference to the Leverage Ratio as of the last day of the most recently ended fiscal quarter of the Borrower preceding such Calculation Date. The Applicable Margin shall be effective from one Calculation Date until the next Calculation Date. Any adjustment in the Applicable Margin shall be applicable to all Credit Events then existing or subsequently made or issued.

Notwithstanding the foregoing, in the event that any financial statement or Authorized Representative's certificate delivered pursuant to Section 9.01(a), (b) or (f) is shown to be inaccurate (regardless of whether (i) this Agreement is in effect, (ii) the Commitments are in effect, or (iii) any Loan or Letter of Credit is outstanding when such inaccuracy is discovered or such financial statement or Authorized Representative's certificate was delivered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for any period (an "Applicable Period") than the Applicable Margin applied for such Applicable Period, then (A) the Borrower shall promptly (but in any event within five (5) Business Days thereafter) deliver to the Administrative Agent a corrected Authorized Representative's certificate for such Applicable Period, (B) the Applicable Margin for such Applicable Period shall be determined as if the Leverage Ratio in the corrected Authorized Representative's certificate were applicable for such Applicable Period, and (C) the Borrower shall within such five (5) Business Day period and retroactively be obligated to pay to the Administrative Agent the accrued additional interest and fees owing as a result of such increased Applicable Margin for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with Section 13.06. Nothing in this paragraph shall limit the rights of the Administrative Agent and Lenders with respect to Sections 2.07(b) and the final paragraph of Section 11 nor any of their other rights under this Agreement. The Borrower's obligations under this paragraph shall survive the termination of the Total Commitment and the repayment of all other Obligations hereunder.

"<u>Appraised Value</u>" in respect of any Rig means the average of the most recent appraisal reports of two separate Approved Appraisers for such Rig; <u>provided</u>, <u>however</u>, that no appraisal report used in such calculation shall have been delivered more than 12 months prior to the relevant date of determination.

"Approved Appraiser" shall mean RS Platou Shipbrokers AS, Fearnleys Ltd., ODS Petrodata, Pareto Offshore AS, H. Clarksons & Company Limited or such other independent appraisal firm nominated by the Borrower and consented to by the Administrative Agent, such consent not to be unreasonably, withheld, conditioned or delayed.

- "Approved Flag State" shall mean any of the following:
- (a) each state registry or flag listed in Schedule A; and
- (b) any other state registry or flag reasonably acceptable to the Administrative Agent.
- "Approved Manager" shall mean any direct or indirect Restricted Subsidiary of the Borrower controlled by the Borrower or any of its Restricted Subsidiaries that is appointed and remains manager of a Collateral Rig by the applicable Collateral Vessel-Owning Subsidiary.
- "Asset Disposition" means the disposition of any or all of the assets of the Borrower or any Restricted Subsidiary (including, without limitation, any Capital Stock owned thereby) whether by sale, lease, transfer or otherwise, and any issuance of Capital Stock by any Restricted Subsidiary to any Person that is not a Credit Party or any Restricted Subsidiary thereof (other than any issuance of directors' qualifying shares or of nominal amounts of other Capital Stock that are required to be held by specified Persons under applicable law). The term "Asset Disposition" shall not include (a) the sale of inventory (other than Rigs) in the ordinary course of business, (b) the sale or disposition of obsolete or worn out property, or property that is no longer used or useful in the conduct of the business of the Borrower or any Restricted Subsidiary, (c) the write-off, discount, sale or other disposition of defaulted or past-due receivables and similar obligations in the ordinary course of business and not undertaken as part of an accounts receivable financing transaction, (d) dispositions of Investments in cash and Cash Equivalents, (e) the transfer of assets (other than a Collateral Disposition) to the Borrower or any Restricted Subsidiary, so long as the Collateral and Guaranty Requirements are satisfied after giving effect thereto, (f) Dividends permitted under Section 10.03, (g) the transfer or issuance of Capital Stock of a Subsidiary of the Borrower to any Person to the extent necessary or advisable under local law for Rig operations under Drilling Contracts so long as (i) the Collateral and Guaranty Requirements are satisfied after giving effect thereto and (ii) if such Subsidiary is a Restricted Subsidiary, then after giving effect thereto, such Subsidiary remains a Restricted Subsidiary, and (h) the disposition of any assets in a transaction or series of transactions that generates Net Cash Proceeds not in excess of \$10,000,000 or, in the aggregate in any calendar year, \$25,000,000.
- " <u>Assignment and Assumption Agreement</u>" shall mean the Assignment and Assumption Agreement substantially in the form of <u>Exhibit A</u> (appropriately completed).
 - " Assignment of Earnings" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - "Assignment of Insurance Proceeds" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - " Assignment of Internal Charter" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
- " <u>Assignment of Management Agreement</u>" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
- "<u>Authorized Representative</u>" shall mean, with respect to (i) delivering Notices of Borrowing, Letter of Credit Requests and similar notices, any Person or Persons that has or have

been authorized by the board of directors of the Borrower to deliver such notices pursuant to this Agreement and that has or have appropriate signature cards on file with the Administrative Agent and each Issuing Lender, (ii) delivering financial information and officer's certificates relating to financial matters pursuant to this Agreement or materials deliverable pursuant to Section 9.07, the chief financial officer, the treasurer or controller of such Person or, if there is no chief financial officer, treasurer or controller of such Person, any other senior executive officer of such Person designated by the president or the board of directors of such Person or such Person's general partner as being a financial officer authorized to deliver and certify financial information under this Agreement and (iii) any other matter in connection with this Agreement or any other Credit Document, any officer (or a person or persons so designated by any two officers), manager or director of such Person or of such Person's general partner, if applicable.

- "Bankruptcy Code" shall have the meaning provided in Section 11.05.
- "Base Rate" shall mean, for any day, a rate of interest per annum equal to the highest of (i) the Prime Rate for such day, (ii) the sum of the Federal Funds Rate for such day plus 1/2 of 1% and (iii) 1% per annum above the Eurodollar Rate for a one-month Interest Period beginning on such date (or if such day is not a Business Day, the immediately preceding Business Day).
 - "Base Rate Loan" shall mean a Loan that bears interest as provided in Section 2.07(a)(i).
 - "Borrower" shall have the meaning set forth in the first paragraph of this Agreement.
- "Borrowing" shall mean a simultaneous borrowing of Loans of the same Type, and with respect to Eurodollar Rate Loans, with the same Interest Period, from all the Lenders (other than any Lender which has not funded its share of a Borrowing in accordance with this Agreement). It is understood that there may be more than one Borrowing outstanding.
- "Business Day" shall mean (i) for all purposes other than as covered by the following clause (ii), any day except Saturday, Sunday and any day which shall be in New York, New York, Houston, Texas or Luxembourg a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close and (ii) with respect to all notices and determinations in connection with, and payments of principal and interest on, Eurodollar Rate Loans, any day which is a Business Day described in clause (i) above and which is also a day for trading by and between banks in U.S. dollar deposits in the London interbank Eurodollar market.
- "Capital Stock" shall mean (i) in the case of a corporation or company, corporate stock or shares, (ii) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents of corporate stock, (iii) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited) and (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing Person.

- "Capitalized Lease Obligations" shall mean, with respect to any Person, all rental obligations of such Person which, under GAAP, are or will be required to be capitalized on the books of such Person, in each case taken at the amount thereof accounted for as indebtedness in accordance with such principles.
- "Cash Collateralize" means, in respect of an obligation, provide and pledge (as a first priority perfected security interest) cash collateral in Dollars, at a location and pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the applicable Issuing Lender (and "Cash Collateralization" has a corresponding meaning).
- "Cash Management Agreement" means any agreement to provide cash management services, including treasury, depository, overdraft, credit or debit card, electronic funds transfer and other cash management arrangements.
- "Cash Equivalents" shall mean (i) securities issued or directly and fully guaranteed or insured by the government of the United States or any other country whose sovereign debt has a rating of at least A3 from Moody's and at least A- from S&P or any agency or instrumentality thereof having maturities of not more than twelve months from the date of acquisition, (ii) certificates of deposit, demand deposits and Eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank organized under the laws of any country that is a member of the Organization for Economic Cooperation and Development having capital and surplus in excess of \$500.0 million (or the equivalent thereof in any other currency or currency unit), (iii) marketable general obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition thereof, having a credit rating of "A" or better from either S&P or Moody's, (iv) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (i), (ii) and (iii) above entered into with any financial institution meeting the qualifications specified in clause (ii) above, (v) commercial paper having one of the two highest ratings obtainable from Moody's or S&P, or carrying an equivalent rating by a nationally recognized rating agency, if both of the two named rating agencies cease publishing ratings or investments, and, in each case, maturing within one year after the date of acquisition, (vi) money market mutual funds substantially all of the assets of which are of the type described in the foregoing clauses (i) through (v) of this definition, and (vii) in the case of the Borrower or any Restricted Subsidiary of the Borrower organized or having its principal place of business outside the United States, investments denominated in the currency of the jurisdiction in which such Person is organized or has its principal place of business or conducts business which are similar to the items specified in clauses (i) through (vi) of this definition.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as the same has been amended and may hereafter be amended from time to time, 42 U.S.C. § 9601 et seq.

"Change of Control" shall mean:

- (i) any "Person" or "Group" (within the meaning of Sections 13(d) and 14(d) under the Exchange Act, as in effect on the Effective Date), other than QPIL or any Affiliate thereof, is or shall (A) be the "beneficial owner" (as so defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act) or otherwise have obtained ownership or control, directly or indirectly, of 40% or more on a fully diluted basis of the voting and/or economic interest in the Borrower's Capital Stock; or
- (ii) any of the Collateral Vessel-Owning Subsidiaries or the Internal Charterer or the Approved Manager shall cease to be (x) Subsidiaries of the Borrower, or (y) 100% owned directly or indirectly by the Borrower, provided however that ownership shares of the Collateral Vessel-Owning Subsidiaries or Internal Charterer or Approved Manager may be held by other Persons to the extent necessary or advisable under local law for Collateral Rig operations under Drilling Contracts, so long as at all times (A) the Collateral Vessel-Owning Subsidiaries, the Internal Charterer and the Approved Manager shall remain under control of the Borrower, and (B) the Borrower shall own, directly or indirectly, at least 51% of the shares of the Collateral Vessel-Owning Subsidiaries, the Internal Charterer and the Approved Manager.
- "Class" when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Existing Loans, Extended Loans (of the same Extension Series), when used in reference to any Commitment, refers to whether such Commitment is an Existing Commitment, an Extended Commitment (of each Extension Series) and when used in reference to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a single class.
- "Classification" shall mean the class + 1A1, Vessel shaped drilling unit (N), DRILL (N), CRANE, HELDK-SH, DYNPOS-AUTRO, F-AM, EO with the Classification Society (free of all material recommendations and conditions) or other highest classification and no material overdue recommendations or adverse notations available for vessels of the same age and type as the Collateral Rigs with its Classification Society or such other classification as the Administrative Agent may, with the authorization of the Required Lenders, agree shall be treated as the Classification of a Collateral Rig for the purposes of the Credit Documents; provided that no change in Classification shall occur without Required Lenders' prior written consent.
- "Classification Society" means Det Norske Veritas or such other classification society that is a member of the International Association of Classification Societies (IACS) as the Administrative Agent shall approve (acting on the authorization of the Required Lenders) from time to time.
- "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder. Section references to the Code are to the Code, as in effect at the date of this Agreement and (except as otherwise provided) any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefor.
- "Collateral" shall mean all property (whether real or personal) with respect to which any security interests have been granted (or purported to be granted) pursuant to any Security Document, including, without limitation, all Pledge Agreement Collateral, all Security

Agreement Collateral, all Insurance Collateral, all Earnings Collateral, all Collateral Rigs, all Earnings Accounts and all cash and Cash Equivalents at any time delivered as collateral hereunder.

- "Collateral and Guaranty Requirements" shall mean with respect to each Collateral Rig or Credit Party, the requirement that:
- (i) (I) each Subsidiary of the Borrower that is required to be a Subsidiary Guarantor in accordance with the definition thereof shall have duly authorized, executed and delivered to the Administrative Agent the U.S. Subsidiary Guaranty, substantially in the form of Exhibit B (as modified, supplemented or amended from time to time, the "U.S. Subsidiary Guaranty"), or a supplement thereto, substantially in the form attached thereto, as applicable, and the U.S. Subsidiary Guaranty shall be in full force and effect, provided that this requirement shall not apply to any Foreign Subsidiary of the Borrower as to which the Administrative Agent shall have determined, based on advice of local counsel, and given written notice of such determination to the Borrower, that it would be preferable to the Secured Creditors for such Foreign Subsidiary not to execute and deliver the U.S. Subsidiary Guaranty, but only to execute and deliver a Foreign Subsidiary Guaranty as contemplated in clause (II) below or
- (II) each Foreign Subsidiary specified in the proviso to clause (I) above shall have duly authorized, executed and delivered a guaranty governed by the laws of the jurisdiction in which such Foreign Subsidiary is organized (any such non-U.S. law governed guaranty to be executed and delivered by a Foreign Subsidiary of the Borrower pursuant to this clause (II), as modified, amended or supplemented from time to time, a "Foreign Subsidiary Guaranty"); provided each Foreign Subsidiary Guaranty shall be prepared by local counsel reasonably satisfactory to the Administrative Agent, shall be in form and substance reasonably satisfactory to the Administrative Agent, and shall conform as nearly as possible (as to the obligations guaranteed and the rights intended to be granted thereunder) to the U.S. Subsidiary Guaranty, taking into account such variations as shall be necessary or desirable under applicable local law as reasonably determined by the Administrative Agent. Schedule B sets forth a list of all Subsidiaries of the Borrower which shall have executed and delivered a Subsidiary Guaranty on or prior to the Effective Date;
- (ii) (I) each Equity-Owning Subsidiary shall have duly authorized, executed and delivered the U.S. Pledge Agreement substantially in the form of Exhibit C (as modified, supplemented or amended from time to time, the "U.S. Pledge Agreement") or a supplement thereto, substantially in the form attached thereto, pursuant to which all of the Capital Stock of any Collateral Vessel-Owning Subsidiary owned by such Equity-Owning Subsidiary shall have been pledged to secure the Secured Obligations, and such Equity-Owning Subsidiary shall have (A) delivered to the Pari Passu Collateral Agent, as pledgee, if applicable, all the Pledged Securities and other Pledge Agreement Collateral referred to therein, together with executed and undated stock powers in the case of capital stock constituting Pledged Securities and (B) otherwise complied with all of the requirements set forth in the U.S. Pledge Agreement and (y) duly authorized, executed and delivered any other related documentation necessary or advisable as reasonably

determined by the Administrative Agent to perfect the Lien on the Pledge Agreement Collateral referred to therein in the respective jurisdictions of formation or of the chief executive office, as the case may be, of such Equity-Owning Subsidiary, or as otherwise provided by applicable law, and the U.S. Pledge Agreement shall be in full force and effect <u>provided</u> that this requirement shall not apply to any Foreign Equity-Owning Subsidiary as to which the Administrative Agent reasonably determines, based on advice of local counsel, and gives written notice of such determination to the Borrower, that it would be preferable to the Secured Creditors for such Foreign Equity-Owning Subsidiary not to execute and deliver the U.S. Pledge Agreement, but only to execute and deliver one or more Foreign Pledge Agreements as contemplated in clause (II) below, and

(II) (A) each Foreign Equity-Owning Subsidiary specified in the proviso in clause (I) above and (B) each Equity-Owning Subsidiary (whether or not a Foreign Equity-Owning Subsidiary) that shall own Capital Stock in one or more Collateral Vessel-Owning Subsidiaries organized under the laws of a jurisdiction other than the jurisdiction of organization of such Equity-Owning Subsidiary (and either such Equity-Owning Subsidiary or such Collateral Vessel-Owning Subsidiary is a Foreign Subsidiary), shall have authorized, executed and delivered a pledge agreement or agreements governed by the laws of the jurisdiction where such Equity-Owning Subsidiary and/or such Collateral Vessel-Owning Subsidiary is organized, if (in the case of (A) and (B)) the Administrative Agent determines (based on advice of local counsel), and gives written notice to the Borrower of such determination, that it would be in the interests of the Secured Creditors that such Equity-Owning Subsidiary and/or such Collateral Vessel-Owning Subsidiary authorize, execute and deliver additional pledge agreements governed by the laws of such non-U.S. jurisdictions (each such non-U.S. law governed pledge agreement to be executed and delivered by one or more Credit Parties pursuant to this clause (II), as modified, amended or supplemented from time to time, a "Foreign Pledge Agreement "and, collectively, the "Foreign Pledge Agreements"); provided that (a) each such Foreign Pledge Agreement shall be prepared by local counsel, shall be in form and substance reasonably satisfactory to the Administrative Agent, and shall conform as nearly as possible (as to the obligations secured thereby and the rights intended to be granted thereunder) to the U.S. Pledge Agreement, taking into account such variations as shall be necessary or desirable under applicable local law as reasonably determined by the Administrative Agent and (b) in connection with the execution and delivery of any such Foreign Pledge Agreement, the respective Credit Parties shall have taken such actions as may be necessary or desirable under local law (as advised by local counsel) to create, effect, preserve, maintain and protect the security interests granted (or purported to be granted) thereby as reasonably determined by the Administrative Agent. The U.S. Pledge Agreement and each Foreign Pledge Agreement, listed on Section A of Schedule C shall be in full force and effect on or prior to the Effective Date. Section B of Schedule C sets forth a list of each Person who shall be an Equity-Owning Subsidiary as of the Effective Date;

In the case of each applicable Pledge Agreement, the Administrative Agent shall have received evidence that all other actions necessary or, in the reasonable opinion of the Administrative Agent desirable, to perfect and protect the security interests purported to be created by such Pledge Agreement have been taken.

- (iii) the Pari Passu Collateral Agent shall have received duly authorized, executed and delivered, with respect to each Collateral Rig, (v) an Assignment of Insurance Proceeds from each Collateral Vessel-Owning Subsidiary and each Internal Charterer substantially in the form of Exhibit E (each, as amended, modified or supplemented from time to time, an "Assignment of Insurance Proceeds" and, together with any additional assignment of insurance proceeds executed and delivered pursuant to Section 9.09(c), the "Assignments of Insurance Proceeds ") covering all of such Credit Party's present and future Insurance Collateral, and each Assignment of Insurance Proceeds shall be in full force and effect, (w) an Assignment of Earnings from each Collateral Vessel-Owning Subsidiary and each Internal Charterer in the form of Exhibit F (each, as amended, modified or supplemented from time to time, together with any additional assignment of earnings executed and delivered pursuant to Section 9.09(c) an "Assignment of Earnings"), covering all Earnings Collateral, and each Assignment of Earnings shall be in full force and effect, (x) a control agreement with respect to each Earnings Account, and such control agreements shall be in full force and effect, (y) if a Management Agreement has been entered into with respect to a Collateral Rig, an Assignment of Management Agreement substantially in the form of Exhibit G (each, as amended, modified or supplemented from time to time, an " Assignment of Management Agreement " and, together with any additional Assignments of Management Agreement executed and delivered pursuant to Section 9.09(c), the "Assignments of Management Agreement") covering the relevant Collateral Vessel-Owning Subsidiary's rights therein and executed by such Collateral Vessel-Owning Subsidiary and by the initial Approved Manager or any replacement thereof or any sub-management agreement, together with appropriate notices and acknowledgements thereof, and a copy of such Management Agreement (certified by an Authorized Representative of the Borrower as true, correct and complete) and (z) if an Internal Charter has been entered into with respect to a Collateral Rig, an Assignment of Internal Charter substantially in the form of Exhibit H (each, as amended, modified or supplemented from time to time, an "Assignment of Internal Charter" and, together with any additional Assignments of Internal Charter executed and delivered pursuant to Section 9.09(c), the "Assignments of Internal Charter") covering the internal charter and the Earnings in connection therewith, together with appropriate notices and acknowledgments thereof, and a copy of such Internal Charter (certified by an Authorized Representative of the Borrower as true, correct and complete);
- (iv) the Subsidiary Guarantors (other than the Equity-Owning Subsidiaries) each shall have duly authorized, executed and delivered a Security Agreement in the form of Exhibit I (each, as amended, modified or supplemented from time to time, a "U.S. Security Agreement" and, together with any additional security agreements executed and delivered pursuant to Section 9.09(c), the "U.S. Security Agreements"), and each U.S. Security Agreement shall be in full force and effect;
- (v) the Credit Parties, other than the Borrower, shall have delivered (a) financing statements (Form UCC-1) in proper form for filing under the UCC or in other appropriate filing offices of each jurisdiction as may be necessary, or in the reasonable opinion of Administrative Agent desirable, to perfect the security interests purported to be created by the Pledge Agreements, Assignment of Earnings, the Assignment of

Insurance Proceeds and the U.S. Security Agreements, (b) certified copies of requests for information or copies (Form UCC-11), or equivalent reports as of a recent date, listing all effective financing statements that name any Credit Party as debtor and that are filed in Washington D.C. and any other relevant jurisdiction, together with copies of such other financing statements (none of which (other than in respect of Permitted Liens) shall cover the Collateral unless the Administrative Agent shall have received Form UCC-3 Termination Statements (or such other termination statements as shall be required by local law) fully completed for filing if required by applicable laws in respect thereof) and (c) in the case of the Pledge Agreements, evidence that all other actions necessary or, in the reasonable opinion of the Administrative Agent desirable, to perfect and protect the security interests purported to be created by the respective Pledge Agreement have been taken;

- (vi) each Collateral Vessel-Owning Subsidiary shall have duly authorized, executed and delivered, with respect to each Collateral Rig in which it has an interest, a first preferred mortgage in form for filing in the appropriate rig registry (as modified, amended or supplemented from time to time in accordance with the terms thereof and hereof, a "Collateral Rig Mortgage" and, together with any additional collateral rig mortgages executed and delivered pursuant to Section 9.09(c), the "Collateral Rig Mortgages"), substantially in the form of Exhibit J, with respect to such Collateral Rig, and such Collateral Rig Mortgage shall be effective upon filing to create in favor of the Pari Passu Collateral Agent, for the benefit of the Secured Creditors, a legal, valid and enforceable first preferred ship mortgage on, and Lien upon, such Collateral Rig, subject only to Permitted Liens, and each Collateral Rig Mortgage shall be in full force and effect;
- (vii) all filings, deliveries of instruments, legal opinions, and other actions necessary or desirable in the reasonable opinion of the Administrative Agent to perfect and preserve the security interests described in clauses (ii) through (vi) above shall have been duly effected and the Pari Passu Collateral Agent shall have received evidence thereof in form and substance reasonably satisfactory to the Administrative Agent; and
 - (viii) the Administrative Agent shall have received each of the following:
 - (a) certificates of ownership from appropriate authorities (i) showing (or confirmation updating previously reviewed certificates and indicating) the registered ownership of such Collateral Rig in the name of the relevant Collateral Vessel-Owning Subsidiary; and (ii) indicating no record liens other than Permitted Liens and Liens to be released on the Effective Date in connection with the Refinancing; and
 - (b) class certificates from a classification society recognized by the United States Coast Guard or another classification society indicating that such Collateral Rig meets the criteria specified in Section 8.22(c); and
 - (c) if applicable, certified copies of all ISM and ISPS Code documentation for each Collateral Rig; and
 - (d) a certificate or letter of undertaking from the Borrower's marine insurance brokers, in form and scope reasonably satisfactory to the Administrative Agent, certifying that the insurance maintained by the Credit Parties in respect of each Collateral Rig (i) is placed with such insurance companies and/or underwriters and/or clubs, in such amounts, against such risks, and in such form, as are customarily insured against by companies operating in the offshore drilling industry for the protection of the Pari Passu Collateral Agent and/or the Lenders as secured party and mortgagee and (ii) include, without limitation, the Required Insurance as set out in Schedule 8.21.

- "Collateral Disposition" shall mean (i) the sale, lease, transfer or other disposition of any Collateral Rig (it being understood that a Drilling Contract is not a Collateral Disposition) by the Borrower or any of its Restricted Subsidiaries to any Person other than a Credit Party or an entity to which such sales, lease, transfer or other disposition is being made that becomes a Credit Party upon such Collateral Disposition or (ii) any Event of Loss in respect of any Collateral Rig.
 - "Collateral Rig" shall mean each Rig listed on Schedule 8.22.
 - "Collateral Rig Mortgages" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
- "Collateral Vessel-Owning Subsidiary" shall mean each of the Borrower's Subsidiaries that has an ownership interest in one or more Collateral Rigs.
- "Commitment" shall mean, for each Lender, the amount set forth opposite such Lender's name in Annex I directly below the column entitled "Commitment," as same may be (x) reduced from time to time or terminated pursuant to Sections 4.02, 4.03 and/or 11, as applicable or (y) adjusted from time to time as a result of assignments to or from such Lender pursuant to Section 2.12 or 13.04(b).
 - "Commitment Fee" shall have the meaning provided in Section 4.01(a).
- "Commodity Exchange Act" shall mean the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.
 - "Communications" shall have the meaning provided in Section 13.03(d)(ii).
- "Consolidated EBITDA" shall mean, for any period, Consolidated Net Income for such period, without duplication of amounts included in or excluded from (as applicable) the calculation of Consolidated Net Income, (i) before deducting therefrom any provision for taxes based on income that were included in arriving at Consolidated Net Income for such period, (ii) before deducting therefrom any interest, commission, fees, discounts, prepayment fees, premiums or charges and other finance payments whether paid, payable or capitalized by the Borrower or any of its Restricted Subsidiaries (calculated on a consolidating basis) in respect of that specified period, (iii) before deducting any amount attributable to the amortization, depreciation or impairment of assets of the Borrower or any of its Restricted Subsidiaries (and taking no account of the reversal of any previous impairment charge made in that specified

period), (iv) not including any accrued interest owing to the Borrower or any of its Restricted Subsidiaries, (v) before taking into account any exceptional items, (vi) after deducting the amount of any profit (or adding back the amount of any loss) of the Borrower or any of its Restricted Subsidiaries that is attributable to minority interests, (vii) before taking into account any unrealized gains or losses on any financial instrument (other than any derivative instrument that is accounted for on a hedge accounting basis), (viii) before taking into account any gain arising from an upward revaluation of any other asset at any time, in each case, to the extent added, deducted or taken into account, as the case may be, for the purposes of determining Consolidated Net Income before taxation; it being understood that in determining the Leverage Ratio only, Consolidated EBITDA for any period shall be calculated on a <u>pro forma</u> basis to give effect to (i) any Acquired Entity or Business acquired during such period and not subsequently sold or otherwise disposed of by the Borrower or any of its Restricted Subsidiaries during such period.

"Consolidated Net Debt" shall mean, as to the Borrower and its Restricted Subsidiaries on a consolidated basis, as at any date of determination, without duplication, the sum of (I) all Indebtedness reflected on the consolidated balance sheet of the Borrower but excluding (x) Indebtedness of the type described in clause (d) of the definition thereof, (y) temporary importation bonds relating to the Collateral Rigs or such vessels owned or operated by the Borrower or its Restricted Subsidiaries and (z) undrawn Commitments under this Agreement, (II) obligations under any operating lease, (III) any amount raised by acceptance under any acceptance credit facility or dematerialized equivalent, (IV) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument, (V) the amount of any liability in respect of any lease or hire purchase contract that, in accordance with GAAP, would be treated as indebtedness under a finance or capital lease, (VI) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis), (VII) the amount of any liability in respect of any purchase price for assets or services the payment of which is deferred for a period in excess of ninety (90) days in order to raise finance or to finance the acquisition of those assets or services, (VIII) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of a borrowing, (IX) the net amount due under any Interest Rate Protection Agreement or Other Hedging Agreement (provided that, when calculating the value of any derivative transaction, the marked to market value shall not be taken into account until such time as the relevant derivative transaction is terminated), (X) any counter-indemnity obligation in respect of amounts already paid under a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial or other institution; and (XI) the amount of any liability (without duplication) in respect of any guarantee or indemnity for any of the items referred to in paragraphs (II) to (X) of this definition; provided that, (i) in determining compliance with Section 10.07 only, and in any event, at the date of such determination of Consolidated Net Debt, the amount of unrestricted cash and Cash Equivalents held by the Borrower and its Restricted Subsidiaries at such time and restricted cash or Cash Equivalents held as collateral for any Indebtedness described above at such time shall be deducted from the calculation of Consolidated Net Debt and (ii) prior to December 31, 2014, Consolidated Net Debt shall not include Indebtedness incurred pursuant to the SSCF.

- "Consolidated Net Income" shall mean, for any period, the net income (or loss) of the Borrower and its Restricted Subsidiaries for such period, determined on a consolidated basis (after any deduction for minority interests), provided that (i) in determining Consolidated Net Income, the net income of any other Person which is not a Restricted Subsidiary of the Borrower or is accounted for by the Borrower by the equity method of accounting shall be included only to the extent of the payment of cash dividends or cash distributions by such other Person to the Borrower or a Restricted Subsidiary thereof during such period, (ii) the net income of any Restricted Subsidiary of the Borrower shall be excluded to the extent that the declaration or payment of cash dividends or similar cash distributions by that Restricted Subsidiary of that net income is not at the date of determination permitted by operation of its charter or any agreement, instrument or law applicable to such Restricted Subsidiary and (iii) the net income (or loss) of any other Person acquired by the Borrower or a Restricted Subsidiary of the Borrower in a pooling of interests transaction for any period prior to the date of such acquisition shall be excluded.
- "Consolidated Net Tangible Assets" as of any date of determination, means the consolidated total assets of the Borrower and the Restricted Subsidiaries determined in accordance with GAAP, less the sum of:
- (1) all current liabilities (excluding the amount of those which are by their terms extendable or renewable at the option of the obligor to a date more than 12 months after the date as of which the amount is being determined); and
- (2) all goodwill, trade names, trademarks, patents, organization expense, unamortized debt discount and expense and other similar intangibles properly classified as intangible assets in accordance with GAAP.
- "Conversion," "Convert" and "Converted" each refer to a conversion of Loans of one Type into Loans of the other Type pursuant to Section 2.07(d), 2.08 or 2.09.
- "Credit Documents" shall mean this Agreement, each Note, each Extension Amendment, each Security Document, each Subsidiary Guaranty, each Pledge Agreement, each Fee Letter, the Intercreditor Agreement, the Intercompany Subordination Agreement, and, after the execution and delivery thereof, each additional guaranty or additional security document executed pursuant to Section 9.09, 9.11 or 10.14 and any amendments and waivers to any of the foregoing.
 - "Credit Event" shall mean the making of any Loan or the issuance, amendment or extension of any Letter of Credit.
 - " Credit Parties" shall mean, collectively, the Borrower and each Subsidiary Guarantor.
 - "Debt Issuance" means the issuance of any Indebtedness by any Credit Party or any of its Restricted Subsidiaries.
 - "Default" shall mean any event, act or condition which with notice or lapse of time, or both, would constitute an Event of Default.

"Defaulting Lender" shall mean at any time, subject to Section 2.13(d), (i) any Lender that has failed for two or more Business Days to comply with its obligations under this Agreement to make a Loan, make a payment to a Issuing Lender in respect its portion of any unreimbursed payment with respect to a Letter of Credit, or make any other payment due hereunder (each, a "funding obligation"), unless such Lender has notified the Administrative Agent and the Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding has not been satisfied (which conditions precedent, together with the applicable default, if any, will be specifically identified in such writing), (ii) any Lender that has notified the Administrative Agent, the Borrower, the Issuing Lenders in writing, or has stated publicly, that it does not intend to comply with its funding obligations hereunder, unless such writing or statement states that such position is based on such Lender's determination that one or more conditions precedent to funding cannot be satisfied (which conditions precedent, together with the applicable default, if any, will be specifically identified in such writing or public statement), (iii) any Lender that has defaulted on its funding obligations under any other material loan agreement or credit agreement or other similar/other financing agreement, (iv) any Lender that has, for three or more Business Days after written request of the Administrative Agent or the Borrower, failed to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Lender will cease to be a Defaulting Lender pursuant to this clause (iv) upon the Administrative Agent's and the Borrower's receipt of such written confirmation), or (v) any Lender with respect to which a Lender Insolvency Event has occurred and is continuing with respect to such Lender or its Parent Company (provided, in each case, that neither the reallocation of funding obligations provided for in Section 2.13(a)(ii) as a result of a Lender's being a Defaulting Lender nor the performance by Non-Defaulting Lenders of such reallocated funding obligations will by themselves cause the relevant Defaulting Lender to become a Non-Defaulting Lender). Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any of clauses (i) through (v) above will be conclusive and binding absent manifest error, and such Lender will be deemed to be a Defaulting Lender (subject to Section 2.13(d)) upon notification of such determination by the Administrative Agent to the Borrower, the Issuing Lenders and the Lenders.

"<u>Dividend</u>" shall mean, with respect to any Person, that such Person has declared or paid a dividend, distribution or returned any equity capital to its stockholders, partners or members or authorized or made any other distribution, payment or delivery of property (other than common equity of such Person) or cash to its stockholders, partners or members as such, or redeemed, retired, purchased or otherwise acquired, directly or indirectly, for a consideration (other than common equity of such Person) any shares of any class of its Capital Stock or any partnership or membership interests outstanding on or after the Effective Date (or any options or warrants issued by such Person with respect to its Capital Stock or other equity interests), or set aside any funds for any of the foregoing purposes, or shall have permitted any of its Subsidiaries to purchase or otherwise acquire for a consideration (other than common equity of such Person) any shares of any class of the Capital Stock of, or other equity interests in, such Person outstanding on or after the Effective Date (or any options or warrants issued by such Person with respect to its Capital Stock or other equity interests). Without limiting the foregoing, "Dividends" with respect to any Person shall also include all payments made or required to be made (other than common equity of such Person) by such Person with respect to any stock appreciation rights, plans, equity incentive or achievement plans or any similar plans or setting aside of any funds for the foregoing purposes.

- "Dollars" and the sign "\$" shall each mean lawful money of the United States.
- "Dollar Equivalent Amount" means, at any time, (a) with respect to any amount in Dollars, such amount, and (b) with respect to any amount denominated in an Alternative Currency, the equivalent amount thereof in dollars as reasonably determined by the Administrative Agent or the applicable Issuing Bank, as the case may be, at such time on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the purchase of dollars with such Alternative Currency.
- "<u>Domestic Subsidiary</u>" shall mean, as to any Person, each Subsidiary of such Person that is organized under the laws of the United States, any state thereof or the District of Columbia.
 - "<u>Drawing</u>" shall have the meaning provided in Section 3.05(b).
- "<u>Drilling Contract</u>" shall mean any charterparty, pool agreement or drilling contract in respect of any Collateral Rig or other contract for use of any Collateral Rig.
- "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Borrower or any of its Subsidiaries as a consequence of the operation of any Collateral Rig, including without limitation payments of any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Borrower or any of its Subsidiaries as a consequence of the operation of any Collateral Rig; (iii) compensation payable to the Borrower or any of its Subsidiaries in the event of any requisition of any Collateral Rig; (iv) remuneration for salvage, towage and other services performed by any Collateral Rig and payable to the Borrower or any of its Subsidiaries; (v) demurrage and retention money receivable by the Borrower or any of its Subsidiaries in relation to any Collateral Rig; (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings; (vii) if and whenever any Collateral Rig is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to any Collateral Rig; and (viii) other money whatsoever due or to become due to any of the Borrower or any of its Subsidiaries in relation to the operation of any Collateral Rig.
- "Earnings Accounts" shall mean, collectively, all deposit and/or security accounts into which any Earnings are directly deposited (other than Earnings payable to or for the account of a Local Content Subsidiary).
 - "Earnings Collateral" shall mean, collectively, all "Collateral" as defined in each Assignment of Earnings.
 - " Effective Date" shall have the meaning provided in the first paragraph of Section 6.

- "Eligible Transferee" shall mean and include a commercial bank, an insurance company, a finance company, a financial institution, any fund that invests in loans or any other "accredited investor" (as defined in Regulation D of the Securities Act); <u>provided</u> that neither the Borrower nor any of its Affiliates shall be an Eligible Transferee at any time.
- "Environmental Claims" shall mean any and all administrative, regulatory or judicial actions, suits, demands, demand letters, directives, claims, Liens, notices of noncompliance or violation, investigations or proceedings relating in any way to any Environmental Law or any permit issued, or any approval given, under any such Environmental Law (hereafter, "Claims"), including, (a) any and all Claims by Governmental Authorities for enforcement, cleanup, removal, response or remedial actions or damages pursuant to any Environmental Law, and (b) any and all Claims by any third party seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief arising out of alleged injury or threat of injury to health, safety or the environment to the extent due to the Release of or exposure to Hazardous Materials.
- "Environmental Law" shall mean any applicable federal, state, foreign, national, international or local statute, law, rule, regulation, ordinance, code, convention, legally binding and enforceable guideline or written policy, and rule of common law now or hereafter in effect and in each case as amended, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, to the extent binding on the Borrower or any of its Subsidiaries, relating to the environment, employee health and safety or Hazardous Materials, including CERCLA; OPA; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Hazardous Material Transportation Act, 49 U.S.C. § 1801 et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq. (to the extent it regulates occupational exposure to Hazardous Materials); and any state and local or foreign counterparts or equivalents, in each case as amended from time to time.
- "Equity-Owning Subsidiaries" shall mean each direct and indirect Subsidiary of the Borrower that is now, or that hereafter becomes, a direct owner of any Capital Stock in any Collateral Vessel-Owning Subsidiary.
- "ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rulings issued thereunder. Section references to ERISA are to ERISA, as in effect at the date of this Agreement and any subsequent provisions of ERISA, amendatory thereof, supplemental thereto or substituted therefor.
- "ERISA Affiliate" shall mean each person (as defined in Section 3(9) of ERISA) which together with the Borrower or a Domestic Subsidiary of the Borrower would be deemed to be a "single employer" within the meaning of Section 414(b), (c), (m) or (o) of the Code.
 - "EU Savings Directive" means the European Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income.
- "Eurodollar Rate" shall mean with respect to each Interest Period for any Eurodollar Rate Loan, a rate of interest per annum equal to (a) the offered rate (rounded upward

to the nearest 1/16 of one percent) for deposits of Dollars for a period equivalent to such period at or about 11:00 A.M. (London time) on the Interest Determination Date for such Interest Period as is displayed on Reuters LIBOR01 Page (or such other service as may be nominated by the British Bankers' Association as the information vendor for displaying the London Interbank Offered Rates of major banks in the London Interbank Market) (the "Screen Rate"), provided that if on such Interest Determination Date no such rate is so displayed, the Eurodollar Rate for such period shall be the arithmetic average (rounded upward to the nearest 1/16th of 1%) of the rates quoted to the Administrative Agent by the Reference Banks for deposits of Dollars in an amount approximately equal to the amount in relation to which the Eurodollar Rate is to be determined for a period equivalent to such applicable Interest Period in the London interbank Eurodollar market at or about 11:00 A.M. (London time) on such Interest Determination Date, in each case divided (and rounded upward to the nearest 1/16 of 1%) by (b) a percentage equal to 100% minus the then stated maximum rate of all reserve requirements (including, without limitation, any marginal, emergency, supplemental, special or other reserves required by applicable law) applicable to any member bank of the Federal Reserve System in respect of Eurocurrency funding or liabilities as defined in Regulation D (or any successor category of liabilities under Regulation D); provided, that in no event shall the Eurodollar Rate be less than zero.

- "Eurodollar Rate Loan" shall mean a Loan that bears interest as provided in Section 2.07(a)(ii).
- "Event of Default" shall have the meaning provided in Section 11.
- "Event of Loss" shall mean any of the following events: (x) the actual or constructive total loss of a Collateral Rig or the agreed or compromised total loss of a Collateral Rig; or (y) the capture, condemnation, confiscation, requisition, purchase, seizure or forfeiture of, or any taking of title to, a Collateral Rig. An Event of Loss shall be deemed to have occurred (i) in the event of an actual loss of a Collateral Rig, at the time and on the date of such loss or if that is not known at noon Greenwich Mean Time on the date which such Collateral Rig was last heard from; (ii) in the event of damage which results in a constructive or compromised or arranged total loss of a Collateral Rig, at the time and on the date of the event giving rise to such damage; or (iii) in the case of an event referred to in clause (y) above, at the time and on the date on which such event is expressed to take effect by the Person making the same.
 - "Exchange Act" shall mean the Securities Exchange Act of 1934, as in effect on the Effective Date.
- "Excluded Swap Obligations" means, with respect to any Credit Party, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Credit Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guarantee of such Credit Party or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a

master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest is or becomes illegal.

- "Excluded Taxes" shall mean any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, branch profits Taxes and net wealth Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, a resident for tax purposes in by reason of maintaining a fixed place of business in, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, Luxembourg withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.12) or (ii) such Lender changes its lending office (other than pursuant to Section 2.11), except in each case to the extent that, pursuant to Section 5.04, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 5.04(g), (d) Taxes required by virtue of (i) the EU Savings Directive; (ii) the Luxembourg laws of 21 June 2005 implementing the EU Savings Directive and several bilateral agreements concluded with certain dependant or associated territories of the European Union; or (iii) the Luxembourg law of 23 December 2005 and (e) any U.S. federal withholding Taxes imposed under FATCA.
 - "Existing Class" shall have the meaning provided in Section 2.14.
 - "Existing Commitment" shall have the meaning provided in Section 2.14.
 - "Existing Letter of Credit Issuers" means Citibank, N.A.
- "Existing Letters of Credit" means the letters of credit issued by the Existing Letter of Credit Issuers under the Temporary Importation Bond Facilities before the date hereof and listed on Schedule D attached hereto.
 - "Existing Loans" shall have the meaning provided in Section 2.14.
- "Existing PFA" shall mean the Third Amendment and Restatement Agreement in respect of the Project Facilities Agreement and the Intercreditor Agreement, dated April 19, 2012, among Pacific Bora Ltd., Pacific Mistral Ltd., Pacific Scirocco Ltd., and Pacific Santa Ana S.à.r.l., as the borrowers, Pacific Drilling Limited, as guarantor, Pacific Bora Ltd., Pacific Scirocco Ltd., Pacific Drilling Limited, Pacific International Drilling West Africa Limited, Pacific Drilling (Gibraltar) Limited, and Pacific Drilling S.A., as the TI Bond Facility Obligors and the arrangers, lenders and agents named therein.
 - "Existing Indebtedness" shall have the meaning provided in Section 10.04(iii).
 - "Extended Commitments" shall have the meaning provided in Section 2.14.

- "Extended Loans" shall have the meaning provided in Section 2.14.
- "Extending Lender" shall have the meaning provided in Section 2.14.
- "Extension Amendment" shall have the meaning provided in Section 2.14.
- "Extension Date" shall have the meaning provided in Section 2.14.
- "Extension Election" shall have the meaning provided in Section 2.14.
- "Extension Request" shall have the meaning provided in Section 2.14.
- "Extension Series" shall mean all Extended Commitments that are established pursuant to the same Extension Amendment (or any subsequent Extension Amendment to the extent such Extension Amendment expressly provides that the Extended Commitments provided for therein are intended to be a part of any previously established Extension Series) and that provide for the same interest margins, extension fees, maturity and other terms.
 - "Facing Fee" shall have the meaning provided in Section 4.01(c).
- "FATCA" shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code.
 - "FCPA" shall mean the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.
- "Federal Funds Rate" shall mean, for any period, a fluctuating interest rate equal for each day during such period to the weighted average of the rates on overnight Federal Funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by the Administrative Agent from three Federal Funds brokers of recognized standing selected by the Administrative Agent.
- "Fee Letters" shall mean each of (a) the fee letter agreement, dated as of April 29, 2013, among the Borrower, Goldman Sachs Bank USA, Goldman Sachs Lending Partners LLC, Citigroup Global Markets Inc., Deutsche Bank AG New York Branch, Deutsche Bank Securities Inc. and Barclays Bank PLC and (b) the fee letter agreement, dated as of April 29, 2013, between the Borrower and Citigroup Global Markets Inc.
 - " Fees" shall mean all amounts payable pursuant to or referred to in Section 4.01.
 - "Foreign Equity-Owning Subsidiary" shall mean any Equity-Owning Subsidiary that is then a Foreign Subsidiary.

- "<u>Foreign Pension Plan</u>" shall mean any plan, fund (including, without limitation, any superannuation fund) or other similar program established or maintained outside the United States of America by the Borrower or any one or more of its Restricted Subsidiaries primarily for the benefit of employees of the Borrower or such Restricted Subsidiaries residing outside the United States of America, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement, or payments to be made on termination of employment, and which plan is not subject to ERISA or the Code.
 - "Foreign Pledge Agreement" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - "Foreign Subsidiary Guaranty" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - "Foreign Subsidiary" shall mean, as to any Person, each Subsidiary of such Person which is not a Domestic Subsidiary.
- "GAAP" shall mean generally accepted accounting principles in the United States consistently applied in accordance with Section 13.07(a).
- "Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).
- "Hazardous Materials" shall mean (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, ureaformaldehyde foam insulation, transformers or other equipment that contain dielectric fluid containing levels of polychlorinated biphenyls, and radon gas, (b) any chemicals, materials or substances regulated as "hazardous substances," "hazardous waste," "hazardous materials," "extremely hazardous substances," "restricted hazardous waste," "toxic substances," "toxic pollutants," or "pollutants," or words of similar import, under any Environmental Law, and (c) any other chemical, material or substance, exposure to which is regulated by any Governmental Authority under Environmental Laws.
 - "Hedging Agreements" shall mean, Interest Rate Protection Agreements and Other Hedging Agreements, collectively.
- "Inactive Subsidiary" shall mean, at any time, each Restricted Subsidiary of the Borrower which (i) is not a Collateral Vessel-Owning Subsidiary, an Equity-Owning Subsidiary or an Internal Charterer, (ii) does not own assets with an aggregate fair market value (as determined in good faith by the management of the Borrower) in excess of \$1,000,000 and (iii) which at such time is inactive (i.e., does not conduct any business).
- "Indebtedness" shall mean, as to any Person, at any date, without duplication, (a) all indebtedness of such Person for borrowed money (other than current trade liabilities,

customer advances and customer deposits incurred in the ordinary course of business and payable in accordance with customary practices) or which is evidenced by a note, bond, debenture or similar instrument, (b) the portion of the obligations of such Person under Capitalized Lease Obligations included as indebtedness on the balance sheet of such Person in accordance with GAAP, (c) the portion of the obligations of such Person in respect of acceptances issued or created for the account of such Person included as indebtedness on the balance sheet of such Person in accordance with GAAP, (d) all obligations of such Person in respect of Hedging Agreements, valued at the mark-to-market value of such Hedging Agreements, which will be the unrealized loss (calculated on a net basis) on such Hedging Agreements to such Person determined as the amount, if any, by which (i) the present value of the future cash flows to be paid by such Person pursuant to such Hedging Agreements exceeds (ii) the present value of the future cash flows to be received by such Person pursuant to such Hedging Agreements, (e) all reimbursement or counter indemnity obligations of such Person in respect of amounts already paid under letters of credit, guarantees or similar instruments backing another Person's obligations of the types described in the foregoing clauses (a), (b), (c) and (d) of this definition secured by any Lien on any property owned by such Person, whether or not such Indebtedness has been assumed by such Person (provided that if the Person has not assumed or otherwise become liable in respect of such Indebtedness, such Indebtedness shall be deemed to be in an amount equal to the fair market value of the property to which such Lien relates as determined in good faith by such Person) and (g) the aggregate Non-Qualified Partnership Liabilities of such Person.

- " Indemnified Party " shall have the meaning provided in Section 13.01.
- "Indemnified Taxes" shall mean (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Credit Document and (b) to the extent not otherwise described in (a), Other Taxes.
 - "Initial Maturity Date" shall mean June 3, 2018.
 - "Insurance Collateral" shall mean, collectively, all "Insurance Proceeds" as defined in each Assignment of Insurance Proceeds.
 - "Intercompany Loan" shall have the meaning provided in Section 10.05(vii).
- "Intercompany Subordination Agreement" shall mean an agreement in the form of Exhibit K entered into between the obligor and obligee in respect of any loan, advance or other extension of credit (including, without limitation, pursuant to guarantees thereof or security thereof) which are made to a Credit Party by any Restricted Subsidiary of the Borrower that is not a Credit Party pursuant to which such loans, advances and other extensions of credit are subordinated to the Secured Obligations.
- "Intercreditor Agreement" means that certain Intercreditor Agreement dated as of the date hereof by and among the Pari Passu Collateral Agent, the Noteholder Agent, the Administrative Agent, the Term Loan Agent, the Borrower and each other Credit Party and each Internal Charterer, as it may be amended, restated, supplemented or otherwise modified in accordance with its terms and this Agreement, including pursuant to the Joinder Agreements (as defined in the Intercreditor Agreement).

- "Interest Determination Date" shall mean, with respect to any Eurodollar Rate Loan, the second Business Day prior to the commencement of any Interest Period relating to such Loan.
- "Interest Period" shall mean, for each Eurodollar Rate Loan comprising part of the same Borrowing, the period commencing on the date of such Eurodollar Rate Loan or the date of the Conversion of any Base Rate Loan into such Eurodollar Rate Loan, and ending on the last day of the period selected by the Borrower pursuant to the provisions below and, thereafter, each subsequent period commencing on the last day of the immediately preceding Interest Period and ending on the last day of the period selected by the Borrower pursuant to the provisions below. The duration of each such Interest Period shall be one-, two-, three- or six-months (or such other period that is twelve months or less, if requested by the Borrower and consented to by the Administrative Agent and all the Lenders), as the Borrower may, upon notice received by the Administrative Agent not later than 11:00 a.m. (New York City time) on the third Business Day prior to the first day of such Interest Period, select; provided, however, that:
 - (i) if the Borrower fails to select an Interest Period, then that Interest Period will be three months;
 - (ii) all Eurodollar Rate Loans comprising a Borrowing shall at all times have the same Interest Period;
 - (iii) if any Interest Period for a Eurodollar Rate Loan begins on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period, such Interest Period shall end on the last Business Day of such calendar month;
 - (iv) if any Interest Period would otherwise expire on a day which is not a Business Day, such Interest Period shall expire on the first succeeding Business Day; <u>provided</u>, <u>however</u>, that if any Interest Period for a Loan would otherwise expire on a day which is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the immediately preceding Business Day;
 - (v) no Interest Period in respect of any Borrowing of Loans shall be selected which extends beyond the Maturity Date; and
 - (vi) the selection of Interest Periods shall be subject to the provisions of Section 2.02.
- "Interest Rate Protection Agreement" shall mean any interest rate swap agreement, interest rate cap agreement, interest rate hedging agreement or other similar agreement or arrangement.

- "Internal Charter" shall mean any charter or other contract respecting the use or operations of any Collateral Rig between a Collateral Vessel-Owning Subsidiary and any Internal Charterer, to the extent such charter does not materially adversely affect the interests of the Lenders.
- "Internal Charterer" means any direct or indirect Restricted Subsidiary of the Borrower controlled by the Borrower or any of its Restricted Subsidiaries (other than a Local Content Subsidiary) that is not the owner of the relevant Collateral Rig and that is party to a Drilling Contract in respect of a Collateral Rig and entitled to receive Earnings thereunder.
 - "Investments" shall have the meaning provided in Section 10.05.
- "ISM Code" shall mean the International Safety Management Code (including the guidelines on its implementation), adopted by the International Maritime Organisation Assembly as Resolutions A.741 (18) and A.788 (19), as the same may be amended or supplemented from time to time (and the terms "safety management system", "Safety Management Certificate" and "Document of Compliance" have the same meanings as are given to them in the ISM Code).
- "ISPS Code" shall mean the International Ship and Port Facility Security Code constituted pursuant to resolution A.924(22) of the International Maritime Organisation ("IMO") adopted by a Diplomatic conference of the IMO on Maritime Security on 13 December 2002 and now set out in Chapter XI-2 of the Safety of Life at Sea Convention (SOLAS) 1974 (as amended) which took effect on 1 July 2004.
- "Issuing Lender" shall mean, so long as they are acting as an Issuing Lender hereunder or are otherwise an issuer of a Letter of Credit hereunder, (x) Citibank, N.A., (y) any other Lender which at the request of the Borrower and with the consent of the Administrative Agent (which consent shall not be unreasonably withheld) agrees (in such Lender's sole discretion) to become an Issuing Lender for the purpose of issuing Letters of Credit pursuant to Section 3 and (z) so long as any Existing Letter of Credit is outstanding, the Existing Letter of Credit Issuer for such Existing Letter of Credit.
- "Joint Venture" shall mean any Person other than an individual or a Wholly-Owned Subsidiary of the Borrower (i) in which the Borrower or any of its Restricted Subsidiaries holds or acquires an ownership interest (by way of ownership of equity interests or other evidence of ownership) and (ii) which is engaged in a business permitted by Section 10.15.
- "<u>Latest Maturity Date</u>" shall mean at any date of determination, the latest Maturity Date applicable to any class of Commitments or Loans that is outstanding hereunder on such date of determination, as extended in accordance with this Agreement from time to time.
- "Lead Arrangers" Citigroup Global Markets, Inc., Goldman Sachs Bank USA and Deutsche Bank Securities Inc., in their respective capacities as joint lead arrangers, and their respective successors.
- "<u>Leaseholds</u>" of any Person shall mean all the right, title and interest of such Person as lessee or licensee in, to and under leases or licenses of land, improvements and/or fixtures.

- "Lender" shall mean each financial institution listed on <u>Annex I</u>, as well as any Person which becomes a "Lender" hereunder pursuant to Section 2.12 or 13.04(b).
- "<u>Lender Creditors</u>" shall mean the Lenders holding from time to time outstanding Loans and/or Commitments, any Issuing Lender and the Administrative Agent, each in their respective capacities.
- "Lender Insolvency Event" shall mean that (i) a Lender or its Parent Company is insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, or (ii) such Lender or its Parent Company is the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been appointed for such Lender or its Parent Company, or such Lender or its Parent Company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment; provided that, for the avoidance of doubt, a Lender Insolvency Event shall not result solely by virtue of (i) any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority, or (ii) in the case of a solvent Person, the precautionary appointment of an administrator, guardian, custodian or other similar official by a Governmental Authority under or based on the law of the country where such person is subject to home jurisdiction supervision if applicable law requires that such appointment not be publicly disclosed; provided, however, that, in any such case, such action does not result in or provide such Person with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.
 - "Letter of Credit" shall have the meaning provided in Section 3.01(b).
 - "Letter of Credit Back-Stop Arrangements" shall have the meaning provided in Section 3.01(d)(iii).
 - "Letter of Credit Fee" shall have the meaning provided in Section 4.01(b).
- "Letters of Credit Outstanding" shall mean, at any time, the sum of (i) the Stated Amount of all outstanding Letters of Credit and (ii) the aggregate amount of all Unpaid Drawings in respect of all Letters of Credit.
 - "Letter of Credit Request" shall have the meaning provided in Section 3.03(a).
- "<u>Leverage Ratio</u>" shall mean, at any date of determination, the ratio of Consolidated Net Debt on such date to Consolidated EBITDA for the Test Period last ended on or prior to such date.
- "<u>Lien</u>" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, and any lease having substantially the same effect as any of the foregoing).

- "Loan" shall have the meaning provided in Section 2.01.
- "Local Content Subsidiary" shall mean any Subsidiary of the Borrower that is a party to a Drilling Contract or otherwise holds the right to receive Earnings attributable to a Collateral Vessel for the purpose of satisfying any local content law or regulation or similar law or regulation.
- "Management Agreement" means a management agreement substantially in the form of Exhibit P with such changes as the Borrower and the Administrative Agent shall reasonably agree.
- "Manager's Subordination Undertaking" shall mean an undertaking by any Approved Manager given or to be given to the Pari Passu Collateral Agent in form and substance reasonably satisfactory to the Pari Passu Collateral Agent.
 - " Margin Regulations" shall mean Regulations U, T and X of the Board of Governors of the Federal Reserve System.
 - "Margin Stock" shall have the meaning provided in Regulation U.
 - "Market Disruption Event" shall mean either of the following events:
 - (i) at or about noon on the Interest Determination Date for the relevant Interest Period the Screen Rate is not available and none or, if there are three or more Lenders, only one of the Reference Banks supplies a rate to the Administrative Agent to determine the Eurodollar Rate for the relevant Interest Period; or
 - (ii) before close of business in New York on the Interest Determination Date for the relevant Interest Period, the Administrative Agent receives notifications from Lenders the sum of whose Commitments at such time equal to at least 50% of the Total Commitment that (i) the cost to such Lenders of obtaining matching deposits in the London interbank Eurodollar market for the relevant Interest Period would be in excess of the Eurodollar Rate for such Interest Period or (ii) such Lenders are unable to obtain funding in the London interbank Eurodollar market.
- "Material Adverse Effect" shall mean (A) a material adverse effect on the operations, business, properties, or financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole, (B) a material impairment of the rights and remedies of the Pari Passu Collateral Agent, the Administrative Agent or any Lender under any Credit Document, or of the ability of any Credit Party to perform its obligations under any Credit Document to which it is a party or (C) a material adverse effect upon the legality, validity, binding effect or enforceability against any Credit Party of any Credit Document to which it is a party.
- "Maturity Date" shall mean, as to the applicable Loan, the Initial Maturity Date or any maturity date related to any Extension Series of Extended Commitments, as applicable.
 - "Moody's "shall mean Moody's Investors Service, Inc.

- "NAIC" shall mean the National Association of Insurance Commissioners.
- "Net Cash Proceeds" means, as applicable, (a) with respect to any Asset Disposition (including any Event of Loss), the cash (which term, for purposes of this definition, shall include any Cash Equivalents, deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when received in cash) proceeds received by any Credit Party or any of its Restricted Subsidiaries therefrom, less the sum of (i) all income taxes and other taxes payable (or reasonably estimated to be payable) to a governmental authority as a result of such transaction and (ii) all reasonable and customary out-of-pocket fees (including, without limitation, legal, accounting and underwriting fees) and expenses incurred in connection with such transaction or event; and (b) with respect to any Debt Issuance, the gross cash proceeds received by any Credit Party or any of its Restricted Subsidiaries therefrom less all reasonable and customary out-of-pocket fees (including, without limitation, legal, accounting and underwriting fees) and expenses incurred in connection therewith.
 - " Non-Defaulting Lender" shall mean, at any time, a Lender that is not a Defaulting Lender.
 - "Non-Recourse Debt" means Indebtedness of an Unrestricted Subsidiary:
 - (1) as to which neither the Borrower nor any Restricted Subsidiary (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender; and
 - (2) no default with respect to which (including any rights that the holders thereof may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Borrower or any Restricted Subsidiary to declare a default on the other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity.
- "Non-Qualified Partnership" shall mean, as to any Person, a partnership or other entity in which such Person is a general partner or has general liability for the Indebtedness of such entity, other than any Subsidiary of the Borrower.
- "Non-Qualified Partnership Liability" of a Person at any time shall mean, with respect to a Non-Qualified Partnership in which such Person has an interest, an amount equal to the amount by which (a) the aggregate amount of the total Indebtedness of such Non-Qualified Partnership at such time minus (without duplication) (i) the aggregate amount of such Indebtedness that is expressly agreed by the holders of such Indebtedness to be non-recourse to such Non-Qualified Partnership (the "Partnership Non-Recourse Liabilities") and (ii) the aggregate amount of such Indebtedness that is expressly agreed by the holders of such Indebtedness to be non-recourse to such Person (the "Partner Non-Recourse Liabilities") exceeds (b) 85% of the aggregate amount of the total tangible assets of such Non-Qualified Partnership at such time minus (without duplication) (x) the aggregate amount of the Partnership Non-Recourse Liabilities at such time and (y) the aggregate amount of the Partner Non-Recourse Liabilities at such time, as determined in accordance with GAAP.

- "Note" shall have the meaning provided in Section 2.05(a).
- "Notice of Borrowing" shall have the meaning provided in Section 2.03(a).
- "Notice Office" shall mean the office of the Administrative Agent located at 1516 Brett Road, Ops III, New Castle, DE 19720, Attention: Citigroup Global Loans, facsimile: (212) 994-0961; email: global.loans.support@citi.com, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.
- "Obligations" shall mean, except to the extent consisting of obligations, liabilities or indebtedness with respect to Interest Rate Protection Agreements or Other Hedging Agreements or Secured Cash Management Agreements, all obligations, liabilities and indebtedness (including, without limitation, principal, premium, interest, fees and indemnities (including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Credit Party at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding)) of each Credit Party to the Lender Creditors (provided, in respect of the Lender Creditors which are Lenders, such aforementioned obligations, liabilities and indebtedness shall arise only for such Lenders (in such capacity) in respect of Loans and/or Commitments), whether now existing or hereafter incurred under, arising out of, or in connection with this Agreement and the other Credit Documents to which such Credit Party is a party (including, in the case of each Credit Party that is a Subsidiary Guarantor, all such obligations, liabilities and indebtedness of such Credit Party under any Subsidiary Guaranty to which such Subsidiary Guarantor is a party) and the due performance and compliance by such Credit Party with all of the terms, conditions and agreements contained in this Agreement and in such other Credit Documents.
 - " OPA" shall mean the Oil Pollution Act of 1990, as amended, 33 U.S.C. § 2701 et seq.
 - "Other Agents" shall have the meaning provided in Section 12.11.
- "Other Connection Taxes" shall mean, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Credit Document, or sold or assigned an interest in any Loan or Credit Document).
- "Other Creditors" shall mean any Lender or any affiliate thereof and their successors and assigns if any (even if such Lender subsequently ceases to be a Lender under this Agreement for any reason), with which the Borrower or any of its Restricted Subsidiaries enters into (i) any Interest Rate Protection Agreements or Other Hedging Agreements from time to time or (ii) any Secured Cash Management Agreement from time to time.
- "Other Hedging Agreement" shall mean any foreign exchange contracts, currency swap agreements, commodity agreements or other similar agreements or arrangements designed to protect against the fluctuations in currency or commodity values.

- "Other Obligations" shall mean all obligations, liabilities and indebtedness (other than Excluded Swap Obligations), including, without limitation, all interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency, reorganization or similar proceeding of any Credit Party at the rate provided for in the respective documentation, whether or not a claim for post-petition interest is allowed in any such proceeding (but excluding, for the avoidance of doubt, any Obligations) owing by any Credit Party or any of its Restricted Subsidiaries to the Other Creditors under, or with respect to (including, in the case of each Credit Party that is a Subsidiary Guarantor, all such obligations, liabilities and indebtedness of such Credit Party under any Subsidiary Guaranty to which such Subsidiary Guarantor is a party), any Interest Rate Protection Agreement, Other Hedging Agreement or Secured Cash Management Agreement, whether such Interest Rate Protection Agreement, Other Hedging Agreement or Secured Cash Management is now in existence or hereafter arising, and the due performance and compliance by such Credit Party or such Restricted Subsidiary with all of the terms, conditions and agreements contained therein.
- "Other Taxes" shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document, other than any such Taxes (a) that are Other Connection Taxes imposed with respect to a Lender's assignment of all or a portion of its rights and obligations under this Agreement (other than an assignment made at the request of the Borrower pursuant to Section 2.12) or (b) that are imposed by Luxembourg (or any political subdivision thereof) as a result of any voluntary registration by a Lender of any Credit Document when such registration is neither ordered by a competent court or an official authority nor required to establish, maintain or preserve any rights of any Recipient.
- "<u>Parent Company</u>" means, with respect to a Lender, the bank holding company (as defined in Federal Reserve Board Regulation Y), if any, of such Lender, and/or any Person owning, beneficially or of record, directly or indirectly, a majority of the shares of such Lender.
 - "Pari Passu Collateral Agent" has the meaning set forth in the Intercreditor Agreement.
 - "Participant" shall have the meaning provided in Section 3.04(a).
 - "PATRIOT Act" shall mean the USA PATRIOT Act (Title III of Pub.L. 107-56 (signed into law October 26, 2001)), as amended.
- "Payment Office" shall mean the office of the Administrative Agent located at 1516 Brett Road, Ops III, New Castle, DE 19720, Attention: Citigroup Global Loans, facsimile: (212) 994-0961; email: global.loans.support@citi.com, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.
- "Percentage" of any Lender at any time shall mean a fraction (expressed as a percentage) the numerator of which is the Commitment of such Lender and the denominator of which is the Total Commitment at such time, <u>provided</u> that if the Percentage of any Lender is to be determined after the Commitments have been terminated, then the Percentage of such Lender shall be determined immediately prior (and without giving effect) to such termination.

- "Permitted Liens" shall have the meaning provided in Section 10.01.
- "Person" shall mean any individual, partnership, joint venture, firm, corporation, association, trust or other enterprise or any Governmental Authority.
- "PIDWAL" shall mean Pacific International Drilling West Africa Limited, a company organized and existing under the laws of the Federal Republic of Nigeria.
- "Plan" shall mean any pension plan as defined in Section 3(2) of ERISA, excluding any pension plan that is not subject to Title I or IV of ERISA, which is maintained or contributed to by (or to which there is an obligation to contribute of) the Borrower or a Subsidiary of the Borrower or any ERISA Affiliate, and each such plan for the five-year period immediately following the latest date on which the Borrower, or a Subsidiary of the Borrower or any ERISA Affiliate maintained, contributed to or had an obligation to contribute to such plan.
 - "Platform" shall have the meaning provided in Section 13.03(d)(i).
- "Pledge Agreement" shall mean, collectively, the U.S. Pledge Agreement, each Foreign Pledge Agreement and any other pledge agreement executed and delivered by any Credit Party pursuant to the definition of "Collateral and Guaranty Requirements" or any of Section 9.09(c) or 10.14(d).
- "Pledge Agreement Collateral" shall mean, collectively, all "Pledged Collateral", "Pledged Assets" or an equivalent term, as applicable, as defined in each Pledge Agreement.
- "Pledged Securities" shall mean "Pledged Shares", "Shares" or an equivalent term, as applicable, as defined in the applicable Pledge Agreement.
 - "Post-Maturity Letter of Credit" shall have the meaning provided in Section 3.02.
- "Prime Rate" shall mean the rate which the Administrative Agent announces from time to time as its prime lending rate, the Prime Rate to change when and as such prime lending rate changes. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer.
- "Projections" shall mean the detailed projected consolidated financial statements of the Borrower and its consolidated Subsidiaries for the four fiscal years ending after the Effective Date, which projections shall (x) reflect the forecasted consolidated financial condition of the Borrower and its consolidated Subsidiaries after giving effect to the financing hereof, and (y) be prepared and approved by an Authorized Representative of the Borrower.
 - "Pro Rata Share" shall have the meaning provided in Section 5.05(b).
 - "QPIL" means Quantum Pacific International Limited, a British Virgin Islands corporation.

- "Quarterly Payment Date" shall mean the last Business Day of each March, June, September and December occurring after the Effective Date, commencing on June 30, 2013.
- "Ready for Sea Cost" shall mean with respect to a Rig to be acquired by the Borrower or any Restricted Subsidiary, the aggregate amount of all expenditures incurred to acquire or construct and bring such Rig to the condition and location necessary for its intended use, including any and all inspections, appraisals, repairs, modifications, additions, permits and licenses in connection with such acquisition or lease.
- "Real Property" of any Person shall mean all the right, title and interest of such Person in and to land, improvements and fixtures, including Leaseholds.
- "Recipient" shall mean (a) the Administrative Agent, (b) any Lender, (c) the Existing Letter of Credit Issuers, and (d) any Issuing Lender, as applicable.
 - "Reference Banks" shall mean the Administrative Agent, Deutsche Bank AG New York Branch and Barclays Bank PLC.
- "Refinancing" shall mean the repayment in full of the Existing PFA and the Temporary Importation Bond Facilities with the proceeds of the Senior Notes, the Senior Term Loans, and the Revolving Facility, and the release and termination of all guarantees and security interests thereunder.
 - "Register" shall have the meaning provided in Section 13.15.
- "Regulation D" shall mean Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof establishing reserve requirements.
- "Regulation T" shall mean Regulation T of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.
- "Regulation U" shall mean Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.
- "Regulation X" shall mean Regulation X of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor to all or a portion thereof.
- "Release" shall mean any disposing, discharging, injecting, spilling, pumping, leaking, leaching, dumping, emitting, escaping, emptying, pouring, seeping, migrating, into, or upon the environment, including any land or water or air.
 - "Replaced Lender" shall have the meaning provided in Section 2.12(a).
 - "Replacement Lender" shall have the meaning provided in Section 2.12(a).

- "Representative" shall have the meaning provided in Section 5.05(d).
- "Required Insurance" shall have the meaning provided in Section 8.21.
- "Required Lenders" shall mean, at any time, Non-Defaulting Lenders the sum of whose outstanding Commitments (or, after the termination thereof, outstanding Loans and Percentages of Letters of Credit Outstanding) represent an amount greater than 50% of the Total Commitment less the outstanding Commitments of all Defaulting Lenders (or after the termination thereof, the sum of then total outstanding Loans of Non-Defaulting Lenders and the aggregate Percentages of all Non-Defaulting Lenders of the total Letters of Credit Outstanding at such time).
 - "Restricted Subsidiary" shall mean all Subsidiaries of the Borrower other than Unrestricted Subsidiaries.
 - "Returns" shall have the meaning provided in Section 8.09.
- "Revaluation Date" means with respect to any Letter of Credit, each of the following: (a) each date of issuance of a Letter of Credit denominated in an Alternative Currency, (b) each date of an amendment of any such Letter of Credit having the effect of changing the amount thereof, (c) each date of any payment by the applicable Issuing Lender of any Letter of Credit denominated in an Alternative Currency and (d) such additional dates as the Administrative Agent, the Borrower or the applicable Issuing Lender shall reasonably determine or the Required Lenders shall require.
 - "Revolving Facility" shall have the meaning provided in Section 2.01.
- "Rig" shall mean, collectively, offshore drilling rigs, including, semisubmersibles, drillships, jack-ups, semisubmersible tender assist vessels and submersible rigs, owned by the Borrower and/or any Subsidiary of the Borrower, and, individually, any of such rigs.
- "Rig Value" shall mean, with respect to each Rig, the aggregate contract price for the acquisition or construction of such Rig, in each case together with all related spares, equipment and any additions or improvements thereto (or the acquisition of the Capital Stock of any Person owning such Rig), as applicable, plus any Ready for Sea Cost with respect to such Rig.
 - "Screen Rate" shall have the meaning specified in the definition of Eurodollar Rate.
 - "SEC" shall have the meaning provided in Section 9.01(h).
- "Secured Cash Management Agreement" means any Cash Management Agreement that is entered into by and between the Borrower or any of its Restricted Subsidiaries and any Other Creditor.
 - "Secured Creditors" shall mean collectively the Other Creditors together with the Lender Creditors.

- "Secured Obligations" shall mean (i) the Obligations, (ii) the Other Obligations, (iii) any and all sums advanced by the Pari Passu Collateral Agent or the Administrative Agent in order to preserve the Collateral or preserve its security interest in the Collateral and (iv) in the event of any proceeding for the collection or enforcement of any indebtedness, obligations or liabilities of the Credit Parties referred to in clauses (i) and (ii) above, after an Event of Default shall have occurred and be continuing, the reasonable expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing of or realizing on the Collateral, or of any exercise by the Pari Passu Collateral Agent of its rights hereunder or under any Security Document, together with reasonable attorneys' fees and court costs.
 - "Securities Act" shall mean the Securities Act of 1933, as amended.
 - "Security Agreement Collateral" shall mean, collectively, all "Collateral" as defined in each U.S. Security Agreement.
- "Security Documents" shall mean the Intercreditor Agreement, each Pledge Agreement, each U.S. Security Agreement, each Assignment of Insurance Proceeds, each Assignment of Earnings, each Assignment of Management Agreement, each Assignment of Internal Charter, each Collateral Rig Mortgage, each control agreement and other security document required to be delivered pursuant to the definition of "Collateral and Guaranty Requirements" and each additional security document delivered pursuant to Section 9.09, 9.11 or 10.14.
 - "Senior Notes" shall mean the Borrower's 5.375% senior secured notes due 2020, issued under the 2013 Indenture.
 - "Senior Term Loans" shall mean the loans made pursuant to the Term Loan Facility.
- "Significant Disposition" means each Asset Disposition of the Borrower and its Restricted Subsidiaries that generates Net Cash Proceeds of \$10,000,000 or more.
 - "S&P" shall mean Standard & Poor's Ratings Services.
 - "Specified Existing Commitment" shall mean any Existing Commitments belonging to a Specified Existing Commitment Class.
 - "Specified Existing Commitment Class" shall have the meaning provided in Section 2.14(a).
- "Spot Rate" for a currency means, on any day, the rate at which such currency may be exchanged into Dollars, as set forth at approximately 11:00 a.m. (London time), on such date on the Reuters World Currency Page for such currency. In the event that such rate does not appear on any Reuters World Currency Page, the Spot Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent or the applicable Issuing Lender, as the case may be, and the Borrower, or, in the absence of such an agreement, such Spot Rate shall instead be the arithmetic average of the spot rates of exchange of the Agent or the applicable Issuing Bank, as the case may be, in the

market where its foreign currency exchange operations in respect of such currency are then being conducted, at approximately 11:00 a.m. (London time), on such date for the purchase of Dollars for delivery two (2) Business Days later; <u>provided</u> that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent or the applicable Issuing Lender may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

- "SSCF" shall mean that certain Senior Secured Credit Facility Agreement, dated as of February 19, 2013, among Pacific Sharav S.à.r.l. and Pacific Drilling VII Limited, as borrowers, Pacific Drilling S.A., as guarantor, and the arrangers, lenders and agents named therein.
- "Stated Amount" of each Letter of Credit shall mean, at any time, the Dollar Equivalent Amount of the maximum amount available to be drawn thereunder (in each case determined without regard to whether any conditions to drawing could then be met).
- "Subsidiary Guaranty" shall mean and include the U.S. Subsidiary Guaranty, each Foreign Subsidiary Guaranty and any other guaranty executed and delivered by any Subsidiary Guarantor pursuant to the definition of "Collateral and Guaranty Requirements" or any of Section 9.09(c).
- "Subsidiary" shall mean, as to any Person, (i) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person and/or one or more Subsidiaries of such Person and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has more than a 50% equity interest at the time.
- "Subsidiary Guarantor" shall mean (i) each Collateral Vessel-Owning Subsidiary, (ii) each Subsidiary (other than Unrestricted Subsidiaries, Inactive Subsidiaries and such Subsidiaries by which a guaranty would be prohibited by applicable law, for so long as such prohibition is in effect) of the Collateral Vessel-Owning Subsidiaries that is required to become a party to a Subsidiary Guaranty pursuant to the definition of "Collateral and Guaranty Requirements" or Section 9.09(c), (iii) each Equity-Owning Subsidiary and (iv) each Internal Charterer.
- "Swap Obligation" means any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.
- "Taxes" shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

- "<u>Term Loan Facility</u>" shall mean that certain Term Loan Agreement dated as of the date hereof by and among the Borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (in such capacity, the "<u>Term Loan Agent</u>").
- "Temporary Importation Bond Facilities" shall mean, (i) the Letter of Credit Facility and Guaranty Agreement for Standby Letter of Credit, dated as of April 19, 2012, among Pacific Scirocco Ltd., Pacific Drilling (Gibraltar) Limited, Pacific Drilling Limited and Pacific Drilling S.A. and the arrangers, lenders and agents named therein and (ii) the Letter of Credit Facility and Guaranty Agreement for Standby Letter of Credit, dated as of April 19, 2012, among Pacific Bora Ltd., Pacific Drilling (Gibraltar) Limited, Pacific Drilling Limited and Pacific Drilling S.A. and the arrangers, lenders and agents named therein.
- "<u>Test Period</u>" shall mean, at any time, each period of four consecutive fiscal quarters then last ended, in each case taken as one accounting period.
 - "Total Commitment" shall mean, at any time, the sum of the Commitments of all of the Lenders at such time.
- "Total Unutilized Commitment" shall mean, at any time, an amount equal to the remainder of the then Total Commitment, <u>less</u> the sum of the aggregate principal amount of Loans then outstanding and the aggregate amount of all Letters of Credit Outstanding at such time.
- "Transaction" shall mean, collectively, (i) the consummation of the Refinancing, (ii) the entering into of the Credit Documents and (iii) the payment of fees and expenses in connection with the foregoing.
 - "Type" shall mean a Base Rate Loan or a Eurodollar Rate Loan.
 - "UCC" shall mean the Uniform Commercial Code as from time to time in effect in the relevant jurisdiction.
 - "United States" and "U.S." shall each mean the United States of America.
 - "<u>Unpaid Drawing</u>" shall have the meaning provided in Section 3.05(a).
 - " <u>Unrestricted Subsidiary</u>" shall mean any Subsidiary designated as such pursuant to Section 10.13.
 - " U.S. Pledge Agreement" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - " <u>U.S. Security Agreement</u>" shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".
 - " U.S. Subsidiary Guaranty " shall have the meaning provided in the definition of "Collateral and Guaranty Requirements".

- "Wholly-Owned Subsidiary" shall mean, as to any Person, (i) any corporation 100% of whose capital stock (other than, in the case of a Foreign Subsidiary, director's qualifying shares and/or other nominal amounts of shares required to be held other than by such Person under applicable law or held by a nominee in trust) is at the time owned by such Person and/or one or more Wholly-Owned Subsidiaries of such Person and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Wholly-Owned Subsidiaries of such Person has a 100% equity interest at such time. Unless otherwise indicated herein, or the context otherwise requires, all references herein to any Wholly-Owned Subsidiary or Wholly-Owned Subsidiaries shall mean and be deemed to be references to a Wholly-Owned Restricted Subsidiaries shall mean and be deemed to be references to a Wholly-Owned Subsidiary or Wholly-Owned Restricted Subsidiary or are Restricted Subsidiaries, as the case may be, that is a Restricted Subsidiary or are Restricted Subsidiaries, as the case may be.
 - "Withholding Agent" shall mean any Credit Party and the Administrative Agent.
- 1.02 <u>Terms Generally; Accounting Terms; GAAP</u>. (a) Unless otherwise specified therein, all terms defined in this Agreement shall have the defined meanings when used in the other Credit Documents or any certificate or other document made or delivered pursuant hereto or thereto.
- (b) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change in GAAP occurring after the Effective Date or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any of its Subsidiaries at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.
- (c) The words "include," "includes" and "including" as used herein shall be deemed to be followed by the phrase, "without limitation."

- (d) The words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, Schedule and Exhibit references are to this Agreement unless otherwise specified.
 - (e) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.
- (f) Unless otherwise expressly provided herein, (a) references to formation documents, governing documents, agreements (including the Credit Documents) and other contractual instruments shall be deemed to include all subsequent refinancings, replacements, amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Credit Document; and (b) references to any law, statute or regulation shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such law, statute or regulation.

SECTION 2. Amount and Terms of Revolving Facility.

- 2.01 The Commitments. Subject to and upon the terms and conditions set forth herein, each Lender severally agrees to make, at any time and from time to time on or after the Effective Date and prior to the Maturity Date, a revolving loan or revolving loans (each, a "Loan" and, collectively, the "Loans") to the Borrower (the "Revolving Facility"), which Loans: (i) shall be denominated in Dollars, (ii) shall bear interest in accordance with Section 2.07, (iii) may be repaid and reborrowed in accordance with the provisions hereof, (iv) shall not exceed for any such Lender at any time outstanding that aggregate principal amount which, when added to the product of (x) such Lender's Percentage under the Revolving Facility and (y) the aggregate amount of all Letters of Credit Outstanding under the Revolving Facility (exclusive of Unpaid Drawings under the Revolving Facility which are repaid with the proceeds of, and simultaneously with the incurrence of, the respective incurrence of Loans) at such time equals the Commitment of such Lender under the Revolving Facility at such time; and (v) shall not exceed for all Lenders at any time outstanding \$200,000,000 (or such lesser amount as is set forth in an applicable Extension Amendment to account for Commitments not extended pursuant to such Extension Amendment) (provided that the amount of Loans may exceed such amount to the extent that the proceeds of such Loans are used to repay Unpaid Drawings under the Revolving Facility).
- 2.02 <u>Minimum Amount of Each Borrowing; Limitation on Number of Borrowings</u>. The aggregate principal amount of each Borrowing of Loans shall not be less than (i) with respect to Eurodollar Rate Loans, \$5,000,000 or an integral multiple of U.S. \$1,000,000 in excess thereof and (ii) with respect to Base Rate Loans, \$500,000 or an integral multiple of \$100,000 in excess thereof. More than one Borrowing may occur on the same date, but at no time shall there be outstanding more than ten (10) Borrowings of Loans.
- 2.03 Notice of Borrowing. (a) Whenever the Borrower desires to incur Loans hereunder, an Authorized Representative of the Borrower shall give the Administrative Agent at the Notice Office (i) at least three Business Days' prior written notice (or telephonic notice

promptly confirmed in writing) of each Eurodollar Rate Loan to be incurred hereunder and (ii) prior written notice on the same Business Day (or telephonic notice promptly confirmed in writing) of each Base Rate Loan to be incurred hereunder, <u>provided</u> that (in each case) any such notice shall be deemed to have been given on a certain day only if given before 11:00 a.m. (New York time) on such day. Each such written notice or written confirmation of telephonic notice (each, a "Notice of Borrowing"), except as otherwise expressly provided in Section 2.09, shall be irrevocable and shall be given in writing by the Borrower in the form of Exhibit L, appropriately completed to specify (i) the aggregate principal amount of the Loans to be incurred pursuant to such Borrowing, (ii) the date of such Borrowing (which shall be a Business Day), (iii) the Type of Loans comprising such Borrowing, (iv) in the case of Eurodollar Rate Loans, the initial Interest Period to be applicable to such Borrowing, and (v) to which account the proceeds of such Loans are to be deposited. The Administrative Agent shall promptly give each Lender notice of such proposed Borrowing, of such Lender's proportionate share thereof and of the other matters required by the immediately preceding sentence to be specified in the Notice of Borrowing. If the borrower fails to specify a Type of Loan in a Notice of Borrowing, then the applicable Loans shall be made as Base Rate Loans.

(b) Without in any way limiting the obligation of the Borrower to confirm in writing any telephonic notice of any Borrowing or prepayment of Loans, the Administrative Agent may act without liability upon the basis of telephonic notice of such Borrowing or prepayment, as the case may be, believed by the Administrative Agent in good faith to be from an Authorized Representative of the Borrower prior to receipt of written confirmation. In each such case, the Borrower hereby waives the right to dispute the Administrative Agent's record of the terms of such telephonic notice of such Borrowing or prepayment of Loans, as the case may be, absent manifest error.

2.04 Disbursement of Funds. No later than 11:00 a.m. (New York time) on the date specified in each Notice of Borrowing, each Lender will make available its pro rata portion (determined in accordance with Section 2.06) of each such Borrowing requested to be made on such date. All such amounts will be made available in Dollars and in immediately available funds at the Payment Office and the Administrative Agent will make available to the Borrower (prior to 1:00 p.m. (New York time) on such day to the extent of funds actually received by the Administrative Agent prior to 11:00 a.m. (New York time) on such day) at the Payment Office, in the account specified in the applicable Notice of Borrowing, the aggregate of the amounts so made available by the Lenders; provided, however, that the Administrative Agent shall first apply such funds to prepay ratably the aggregate principal amounts paid by the Participants to the Issuing Lenders pursuant to Section 3.04(c). Unless the Administrative Agent shall have been notified by any Lender prior to the date of Borrowing that such Lender does not intend to make available to the Administrative Agent such Lender's portion of any Borrowing to be made on such date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such date of Borrowing and the Administrative Agent may in its sole discretion (but shall not, for the avoidance of doubt, be obligated to), in reliance upon such assumption, make available to the Borrower a corresponding amount. If such corresponding amount is not in fact made available to the Administrative Agent by such Lender and such amount is advanced to the Borrower by the Administrative Agent, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender. If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's

demand therefor, the Administrative Agent shall promptly notify the Borrower and the Borrower shall immediately pay such corresponding amount to the Administrative Agent. The Administrative Agent also shall be entitled to recover on demand from such Lender or the Borrower, as the case may be, interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower until the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to (i) if recovered from such Lender, the overnight Federal Funds Rate for the first three days and at the interest rate otherwise applicable to such Loans for each day thereafter and (ii) if recovered from the Borrower, the rate of interest applicable to the respective Borrowing, as determined pursuant to Section 2.07. Nothing in this Section 2.04 shall be deemed to relieve any Lender from its obligation to make Loans hereunder or to prejudice any rights which the Borrower may have against any Lender as a result of any failure by such Lender to make Loans hereunder.

- 2.05 Notes. (a) The Borrower's obligation to pay the principal of, and interest on, the Loans made by each Lender shall be evidenced in the Register maintained by the Administrative Agent pursuant to Section 13.15 and shall, if requested by such Lender as provided below, also be evidenced by a promissory note duly executed and delivered by the Borrower substantially in the form of Exhibit M, with blanks appropriately completed in conformity herewith (each a "Note" and, collectively, the "Notes").
- (b) The Note issued to each Lender that has a Commitment or outstanding Loans shall (i) be executed by the Borrower, (ii) be payable to such Lender or its registered assigns and be dated the Effective Date (or, in the case of Notes issued after the Effective Date, be dated the date of the issuance thereof), (iii) be in a stated principal amount equal to the Commitment of such Lender (or, if issued after the termination thereof, be in a stated principal amount equal to the outstanding Loans of such Lender at such time) and be payable in the outstanding principal amount of the Loans evidenced thereby, (iv) mature on the Maturity Date, (v) bear interest as provided in Section 2.07, (vi) be subject to voluntary prepayment and mandatory repayment as provided in Sections 5.01 and 5.02 and (vii) be entitled to the benefits of this Agreement and the other Credit Documents.
- (c) Each Lender will note on its internal records the amount of each Loan made by it and each payment in respect thereof and, prior to the surrender of a Note pursuant to Section 13.15, will endorse on the reverse side thereof the outstanding principal amount of Loans evidenced thereby. Failure to make any such notation or any error in such notation or endorsement shall not affect the Borrower's obligations in respect of such Loans.
- (d) Notwithstanding anything to the contrary contained above in this Section 2.05 or elsewhere in this Agreement, Notes shall only be delivered to Lenders which at any time specifically request the delivery of such Notes. No failure of any Lender to request or obtain a Note evidencing its Loans to the Borrower shall affect or in any manner impair the obligations of the Borrower to pay the Loans (and all related Obligations) incurred by the Borrower which would otherwise be evidenced thereby in accordance with the requirements of this Agreement, and shall not in any way affect the security or guaranties therefor provided pursuant to the various Credit Documents. Any Lender which does not have a Note evidencing its outstanding Loans shall in no event be required to make the notations otherwise described in preceding

- clause (c). At any time when any Lender requests the delivery of a Note to evidence any of its Loans, the Borrower shall (at its expense) promptly execute and deliver to the respective Lender the requested Note in the appropriate amount or amounts to evidence such Loans.
- 2.06 <u>Pro Rata Borrowings</u>. All Borrowings of Loans under this Agreement shall be incurred from the Lenders <u>pro rata</u> on the basis of their Commitments. It is understood that no Lender shall be responsible for any default by any other Lender of its obligation to make Loans hereunder and that each Lender shall be obligated to make the Loans provided to be made by it hereunder, regardless of the failure of any other Lender to make its Loans hereunder.
- 2.07 <u>Interest</u>. (a) The Borrower agrees to pay interest in respect of the unpaid principal amount of each Loan from the date of Borrowing thereof until such principal amount shall be paid in full, at the following rates per annum:
 - (i) <u>Base Rate Loans</u>. During such periods as such Loan is a Base Rate Loan, a rate per annum equal at all times to the sum of (A) the Base Rate in effect from time to time plus (B) the Applicable Margin in effect from time to time, payable in arrears quarterly on each Quarterly Payment Date, on the date such Base Rate Loan shall be Converted and on the date of any repayment or prepayment (on the amount repaid or prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.
 - (ii) <u>Eurodollar Rate Loans</u>. During such periods as such Loan is a Eurodollar Rate Loan, a rate per annum equal at all times during each Interest Period for such Loan to the sum of (A) the Eurodollar Rate for such Interest Period for such Loan plus (B) the Applicable Margin in effect from time to time, payable in arrears on the last day of such Interest Period and, if such Interest Period has a duration of more than three months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period, on the date such Eurodollar Rate Loan shall be Converted and on the date of any repayment (on the amount repaid or prepaid), at maturity (whether by acceleration or otherwise) and, after such maturity, on demand.
- (b) Upon the occurrence and during the continuance of an Event of Default, the Borrower shall pay interest ("<u>Default Interest</u>") on (i) the overdue outstanding principal amount of each Loan, payable in arrears on the dates referred to in clause (i) or (ii) of Section 2.07(a), as applicable, and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Loan pursuant to clause (i) or (ii) of Section 2.07(a), as applicable and (ii) to the fullest extent permitted by applicable law, the amount of any overdue interest, fee (including any Letter of Credit Fee) or other amount payable under this Agreement or any other Loan Document to any Agent or any Lender Party that is not paid when due, from the date such amount shall be due until such amount shall be paid in full, payable in arrears on the date such amount shall be paid in full and on demand, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on Base Rate Loans pursuant to clause (i) of Section 2.07(a).

- (c) Promptly after receipt of a Notice of Borrowing pursuant to Section 2.03, a notice of Conversion pursuant to Section 2.08 or a notice of selection of an Interest Period pursuant to the definition thereof, the Administrative Agent shall give notice to the Borrower and each Lender of the applicable Interest Period and the applicable interest rate determined by the Administrative Agent for purposes of clause (i) or (ii) of Section 2.07(a), and the applicable rate, if any, furnished by each Reference Bank for the purpose of determining the applicable interest rate under clause (a)(ii) above. Each such determination shall, absent manifest error, be final and conclusive and binding on all parties hereto.
- (d) (i) Each Reference Bank agrees to furnish to the Administrative Agent timely information for the purpose of determining each Eurodollar Rate. If any one or more of the Reference Banks shall not furnish such timely information to the Administrative Agent for the purpose of determining any such interest rate, the Administrative Agent shall determine such interest rate on the basis of timely information furnished by the remaining Reference Banks.
 - (ii) If fewer than two Reference Banks are able to furnish timely information to the Administrative Agent for determining the Eurodollar Rate for any Eurodollar Rate Loans,
 - (1) the Administrative Agent shall forthwith notify the Borrower and the Lenders that the interest rate cannot be determined for such Eurodollar Rate Loans,
 - (2) each such Loan will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan (or if such Loan is then a Base Rate Loan, will continue as a Base Rate Loan), and
 - (3) the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower and the Lenders that the circumstances causing such suspension no longer exist.

2.08 Conversion of Loans . (a) Optional . The Borrower may on any Business Day, upon notice given to the Administrative Agent not later than 11:00 A.M. (New York City time) on the third Business Day prior to the date of the proposed Conversion and subject to the provisions of Sections 2.07 and 2.09, Convert all or any portion of the Loans of one Type comprising the same Borrowing into Loans of the other Type; provided , however , that any Conversion of Eurodollar Rate Loans into Base Rate Loans shall be made only on the last day of an Interest Period for such Eurodollar Rate Loans, any Conversion of Base Rate Loans into Eurodollar Rate Loans shall be in an amount not less than the minimum amount specified in Section 2.02, no Conversion of any Loans shall result in more separate Borrowings than permitted under Section 2.02 and each Conversion of Loans comprising part of the same Borrowing shall be made ratably among the Lenders in accordance with their Commitments. Each such notice of Conversion shall, within the restrictions specified above, specify (i) the date of such Conversion, (ii) the Loans to be Converted and (iii) if such Conversion is into Eurodollar Rate Loans, the duration of the initial Interest Period for such Loans. Each notice of Conversion shall be irrevocable and binding on the Borrower.

- (b) <u>Mandatory</u>. (i) If the Borrower shall fail to select the duration of any Interest Period for any Eurodollar Rate Loans in accordance with the provisions contained in the definition of "Interest Period" in Section 1.01, the Administrative Agent will forthwith so notify the Borrower and the Lenders, whereupon each such Eurodollar Rate Loan will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan.
 - (ii) Upon the occurrence and during the continuance of any Event of Default (in the case of an Event of Default under Sections 11.01 and 11.05, automatically, and in the case of any other Event of Default, upon the request of the Required Lenders), (x) each Eurodollar Rate Loan will, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan and (y) the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended.
- 2.09 <u>Increased Costs, Illegality, Market Disruption, etc.</u> (a) In the event that any Recipient shall have determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto):
 - (i) at any time, that such Recipient shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any Loan, Commitment or Letter of Credit because of, without duplication, the introduction of or effectiveness of or any change since the Effective Date in any applicable law, treaty or governmental rule, regulation, order, guideline, directive or request (whether or not having the force of law) concerning capital adequacy, liquidity requirements or changes therein or otherwise or in the interpretation or administration thereof and including the introduction of any new law or governmental rule, regulation, order, guideline or request, such as, for example, but not limited to: (A) any such introduction, effectiveness or change subjecting any Recipient to any Tax, duty or other charge (other than Excluded Taxes) with respect to any Loan, Notes, Letter of Credit, Commitment, or deposits, reserves, other liabilities or capital attributable thereto or its obligation to make such Loan or issue such Letter of Credit, or a change in the basis of taxation of payment to any Recipient of the principal of or interest on the Loans or the Notes or any other amounts payable hereunder (other than any change in the rate or basis of taxation of any Excluded Tax), but without duplication of any amounts payable in respect of Taxes pursuant to Section 3.06 or Indemnified Taxes pursuant to Section 5.04, (B) a change in official reserve requirements but, in all events, excluding reserves required under Regulation D to the extent included in the computation of the Eurodollar Rate, or (C) a change that will have the effect of increasing the amount of capital adequacy or liquidity required or requested by an applicable governmental regulatory authority to be maintained by such Lender, or any corporation controlling such Lender, based on the existence of such Lender's Commitments hereunder or its obligations hereunder; or
 - (ii) at any time, that the making or continuance of any Eurodollar Rate Loan has been made unlawful by any law or governmental rule, regulation or order or any central bank or other governmental body or authority shall assert that it is unlawful;

then, and in any such event, such Recipient shall promptly give notice (by telephone confirmed in writing) to the Borrower and, in the case of clause (ii) above, to the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each of the Lenders). Thereafter (x) in the case of clause (i) above, the Borrower agrees (to the extent applicable), to pay to such Recipient, upon its written demand therefor, such additional amounts as shall be required to compensate such Recipient or such other corporation for the increased costs or reductions to such Recipient or such other corporation and (y) in the case of clause (ii) above, the Borrower shall take one of the actions specified in Section 2.09(b) as promptly as possible and, in any event, within the time period required by law. In determining such additional amounts, each Recipient will act reasonably and in good faith and will use averaging and attribution methods which are reasonable, provided that such Recipient's determination of compensation owing under this Section 2.09(a) shall, absent manifest error be final and conclusive and binding on all the parties hereto. Each Recipient, upon determining that any additional amounts will be payable pursuant to this Section 2.09(a), will give prompt written notice thereof to the Borrower, which notice shall show in reasonable detail the basis for the calculation of such additional amounts. In the case of the circumstances described in Section 2.09(a)(ii), the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower that such Lender has determined that the circumstances causing such suspension no longer exist.

- (b) At any time that any Loan is affected by the circumstances described in Section 2.09(a)(i) or (ii), the Borrower may (and in the case of a Loan affected by the circumstances described in Section 2.09(a)(ii) shall) either (x) if the affected Loan is then being made initially, cancel the respective Borrowing by giving the Administrative Agent telephonic notice (confirmed in writing) on the same date or the next Business Day that such Borrower was notified by the affected Lender or the Administrative Agent pursuant to Section 2.09(a)(i) or (ii) or (y) if the affected Loan is then outstanding, upon at least three Business Days' written notice to the Administrative Agent, in the case of any Loan, repay all outstanding Borrowings (within the time period required by the applicable law or governmental rule, governmental regulation or governmental order) which include such affected Loans in full in accordance with the applicable requirements of Section 5.02; provided that prior to such repayment, in the case of any Eurodollar Rate Loan that is affected by the circumstances described in Section 2.09(a)(ii), such Loans will automatically, upon delivery of such notice, Convert into a Base Rate Loan; provided further that if more than one Lender is affected at any time, then all affected Lenders must be treated the same pursuant to this Section 2.09(b).
- (c) If a Market Disruption Event occurs in relation to a Eurodollar Rate Loan for any Interest Period, then the Administrative Agent shall forthwith so notify the Borrower and the Lenders, whereupon (i) each such Eurodollar Rate Loan will automatically, on the last day of the then existing Interest Period therefor, Convert into a Base Rate Loan and (ii) the obligation of the Lenders to make, or to Convert Loans into, Eurodollar Rate Loans shall be suspended until the Administrative Agent shall notify the Borrower that such Lenders have determined that the circumstances causing such suspension no longer exist.

- (d) If any Reference Bank ceases to be a Lender under this Agreement, (x) it shall cease to be a Reference Bank and (y) the Administrative Agent shall, with the approval (which shall not be unreasonably withheld) of the Borrower, nominate as soon as reasonably practicable another Lender to be a Reference Bank in place of such Reference Bank.
- (e) Notwithstanding anything in this Agreement to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a change after the Effective Date in an applicable law or governmental rule, regulation or order, regardless of the date enacted, adopted, issued or implemented for all purposes under or in connection with this Agreement (including this Section 2.09).
- 2.10 <u>Compensation</u>. The Borrower agrees to compensate each Lender, upon its written request (which request shall set forth in reasonable detail the basis for requesting such compensation), for all reasonable losses, expenses and liabilities (including, without limitation, any loss, expense or liability incurred by reason of the liquidation or reemployment of deposits or other funds required by such Lender to fund its Eurodollar Rate Loans but excluding loss of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender or the Administrative Agent) a Eurodollar Rate Borrowing does not occur on a date specified therefor in a Notice of Borrowing (whether or not withdrawn by the Borrower or deemed withdrawn pursuant to Section 2.09(a)); (ii) if any prepayment or repayment (including any prepayment or repayment made pursuant to Section 2.09(a), Section 5.01, Section 5.02 or as a result of an acceleration of the Loans pursuant to Section 11) of any of its Eurodollar Rate Loans, or assignment of any of its Eurodollar Rate Loans pursuant to Section 2.12, occurs on a date which is not the last day of an Interest Period with respect thereto; (iii) if any prepayment of any of its Eurodollar Rate Loans is not made on any date specified in a notice of prepayment given by the Borrower; or (iv) as a consequence of any other default by the Borrower to repay Eurodollar Rate Loans or make payment on any Note held by such Lender when required by the terms of this Agreement.
- 2.11 Change of Lending Office; Limitation on Additional Amounts. Each Lender agrees that upon the occurrence of any event giving rise to the operation of Section 2.09(a)(i) or (ii), Section 2.09(b), Section 3.06 or Section 5.04(b) or (d) with respect to such Lender, it will, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans or Letters of Credit affected by such event, <u>provided</u> that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of the event giving rise to the operation of such Section. Nothing in this Section 2.11 shall affect or postpone any of the obligations of the Borrower or the right of any Lender provided in Sections 2.09, 3.06 and 5.04.
- 2.12 <u>Replacement of Lenders</u>. (x) If any Lender becomes a Defaulting Lender or otherwise defaults in its obligations to make Loans or fund Unpaid Drawings, (y) upon the occurrence of any event giving rise to the operation of Section 2.09(a)(i) or (ii), Section 2.09(b)

or Section 5.04(b) or (d) with respect to any Lender which results in such Lender charging to the Borrower increased costs in excess of those being generally charged by the other Lenders, or (z) as provided in Section 13.12(b) in the case of certain refusals by a Lender to consent to certain proposed changes, waivers, discharges or terminations with respect to this Agreement which have been approved by the Required Lenders, the Borrower shall have the right, if no Default or Event of Default then exists (or, in the case of preceding clause (z), will exist immediately after giving effect to the respective replacement), to replace such Lender (the "Replaced Lender") with one or more other Eligible Transferee or Eligible Transferees, none of whom shall constitute a Defaulting Lender at the time of such replacement (collectively, the "Replacement Lender") and each of whom shall be required to be reasonably acceptable to the Administrative Agent if such replacement would (in the case of the preceding clause (y)) result in a reduction of the increased costs charged to the Borrower, provided that:

- (i) at the time of any replacement pursuant to this Section 2.12, the Replacement Lender shall enter into one or more Assignment and Assumption Agreements pursuant to Section 13.04(b) (and with all fees payable pursuant to said Section 13.04(b) to be paid by the Replacement Lender) pursuant to which the Replacement Lender shall acquire all of the Commitments and outstanding Loans of, and in each case participations in Letters of Credit by, the Replaced Lender and, in connection therewith, shall pay to (x) the Replaced Lender in respect thereof an amount equal to the sum of (I) an amount equal to the principal of, and all accrued and unpaid interest on, all outstanding Loans of the Replaced Lender with respect to which such Replaced Lender is being replaced, (II) an amount equal to all Unpaid Drawings (unless there are no Unpaid Drawings being replaced) that have been funded by (and not reimbursed to) such Replaced Lender, together with all then accrued and unpaid interest with respect thereto at such time, and (III) an amount equal to all accrued, but theretofore unpaid, Fees owing to the Replaced Lender pursuant to Section 4.01 and (y) each Issuing Lender an amount equal to such Replaced Lender's Percentage of any Unpaid Drawing (which at such time remains an Unpaid Drawing) to the extent such amount was not theretofore funded by such Replaced Lender to such Issuing Lender, together with all then accrued and unpaid interest with respect thereto at such time; and
- (ii) all obligations of the Borrower due and owing to the Replaced Lender at such time (other than those specifically described in clause (i) above in respect of which the assignment purchase price has been, or is concurrently being, paid) shall be paid in full to such Replaced Lender concurrently with such replacement.

Upon the execution of the respective Assignment and Assumption Agreement, the payment of amounts referred to in clauses (i) and (ii) above and, if so requested by the Replacement Lender, delivery to the Replacement Lender of the appropriate Note or Notes executed by the Borrower, the Replacement Lender shall become a Lender hereunder and the Replaced Lender shall cease to constitute a Lender hereunder, except with respect to indemnification provisions under this Agreement (including, without limitation, Sections 2.09, 2.10, 3.06, 5.04, 12.06 and 13.01), which shall survive as to such Replaced Lender.

- 2.13 <u>Defaulting Lenders</u>. (a) Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:
 - (i) that Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 13.12;
 - (ii) such Defaulting Lender's obligation to acquire, refinance or fund participations in Letters of Credit pursuant to Section 3.04 ("LC Exposure") will, subject to the limitation in the first proviso below, automatically be reallocated (effective on the day such Lender becomes a Defaulting Lender) among the Non-Defaulting Lenders <u>pro rata in accordance</u> with their respective Commitments; <u>provided</u> that (a) the sum of each Non-Defaulting Lender's total unpaid principal amount of Loans and total LC Exposure may not in any event exceed the Commitment of such Non-Defaulting Lender as in effect at the time of such reallocation and (b) neither such reallocation nor any payment by a Non-Defaulting Lender pursuant thereto will constitute a waiver or release of any claim the Borrower, the Administrative Agent, the Issuing Lenders or any other Lender may have against such Defaulting Lender or cause such Defaulting Lender to be a Non-Defaulting Lender;
 - (iii) to the extent that any portion (the "<u>unreallocated portion</u>") of the Defaulting Lender's LC Exposure cannot be so reallocated, whether by reason of the first proviso in clause (ii) above or otherwise, the Borrower will, not later than one Business Days after demand by the Administrative Agent (at the direction of the Issuing Lenders), (a) Cash Collateralize the obligations of the Borrower to the Issuing Lenders in respect of such LC Exposure in an amount at least equal to the aggregate amount of the unreallocated portion of such LC Exposure or (b) enter into other Letter of Credit Back-Stop Arrangements;
 - (iv) any amount paid by the Borrower or otherwise received by the Administrative Agent for the account of a Defaulting Lender under this Agreement (whether on account of principal, interest, fees, indemnity payments or other amounts) will not be paid or distributed to such Defaulting Lender, but will instead be retained by the Administrative Agent in a segregated non-interest bearing account until (subject to Section 2.13(d)) the termination of the Commitments and payment in full of all Obligations of the Borrower hereunder and will be applied by the Administrative Agent, to the fullest extent permitted by law, to the making of payments from time to time in the following order of priority: first to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent under this Agreement, second to the payment of any amounts owing by such Defaulting Lender to the Lenders (pro rata as to the respective amounts owing to each of them) under this Agreement, third to the payment of post-default interest and then current interest due and payable to the Lenders hereunder other than Defaulting Lenders, ratably among them in accordance with the amounts of such interest then due and payable to them, fourth to the payment of fees then due and payable to them Non-Defaulting Lenders hereunder, ratably among them in accordance with the amounts of such fees then due and payable to them, fifth to pay

principal and Unpaid Drawings then due and payable to the Non-Defaulting Lenders hereunder ratably in accordance with the amounts thereof then due and payable to them, <u>sixth</u> to the ratable payment of other amounts then due and payable to the Non-Defaulting Lenders, and <u>seventh</u> after the termination of the Commitments and payment in full of all Obligations of the Borrower hereunder, to pay amounts owing under this Agreement to such Defaulting Lender or as a court of competent jurisdiction may otherwise direct;

- (v) each Issuing Lender is hereby authorized by the Borrower (which authorization is irrevocable and coupled with an interest) to give, in its discretion, through the Administrative Agent, Notices of Borrowing pursuant to Section 2.03 in such amounts and in such times as may be required to (i) reimburse an Unpaid Drawing and/or (ii) Cash Collateralize the obligations of the Borrower in respect of outstanding Letters of Credit in an amount at least equal to the aggregate amount of the obligations (contingent or otherwise) of such Defaulting Lender in respect of such Letter of Credit; and
- (vi) such Defaulting Lender will not be entitled to any fees accruing during such period pursuant to Section 4.01(a) and Section 4.01(b) (without prejudice to the rights of the Non-Defaulting Lenders in respect of such fees), <u>provided</u> that (a) to the extent that all or a portion of the LC Exposure of such Defaulting Lender is reallocated to the Non-Defaulting Lenders pursuant to clause (ii) above, such fees that would have accrued for the benefit of such Defaulting Lender will instead accrue for the benefit of and be payable to such Non-Defaulting Lenders, pro rata in accordance with their respective Commitments, and (b) to the extent that all or any portion of such LC Exposure cannot be so reallocated, such fees will instead accrue for the benefit of and be payable to the Issuing Lenders (and the pro rata payment provisions of Section 13.06 will automatically be deemed adjusted to reflect the provisions of this Section).
- (b) In addition to the foregoing, if a Lender becomes, and during the period it remains, a Defaulting Lender, any Issuing Lender may, upon prior written notice to the Borrower and the Administrative Agent, resign as Issuing Lender, effective at the close of business New York time on a date specified in such notice (which date may not be less than 30 days after the date of such notice); provided that such resignation by an Issuing Lender will have no effect on the validity or enforceability of any Letter of Credit then outstanding or on the obligations of the Borrower or any Lender under this Agreement with respect to any such outstanding Letter of Credit or otherwise to such Issuing Lender.
- (c) So long as any Lender is a Defaulting Lender, such Lender will not be an Other Creditor with respect to any Interest Rate Protection Agreements, Other Hedging Agreements or Cash Management Agreements entered into while such Lender was a Defaulting Lender.
- (d) If the Borrower, the Administrative Agent and each Issuing Lender agree in writing in their discretion that a Lender is no longer a Defaulting Lender, as the case may be, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any amounts then held in the segregated account referred to in Section 2.13(a)(iv)), such Lender will, to the extent applicable, purchase at par such portion of

outstanding Loans of the other Lenders and/or make such other adjustments as the Administrative Agent may determine to be necessary to cause the Loans and LC Exposure of the Lenders to be on a pro rata basis in accordance with their respective Commitments, whereupon such Lender will cease to be a Defaulting Lender and will be a Non-Defaulting Lender (and such Loans and LC Exposure of each Lender will automatically be adjusted on a prospective basis to reflect the foregoing); provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while such Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Non-Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from such Lender's having been a Defaulting Lender.

2.14 Extension Offers . (a) The Borrower may at any time and from time to time request that all or a portion of the Commitments existing at the time of such request (each, an "Existing Commitment" and any related Loans, "Existing Loans"; each Existing Commitment and related Existing Loans together being referred to as an "Existing Class") be converted to extend the termination date thereof and the scheduled maturity date(s) of any payment of principal with respect to all or a portion of any principal amount of Existing Loans related to such Existing Commitments (any such Existing Commitments which have been so extended, "Extended Commitments" and any related Loans, "Extended Loans") and to provide for other terms consistent with this Section 2.14. Prior to entering into any Extension Amendment (as defined below) with respect to any Extended Commitments, the Borrower shall provide a notice to the Administrative Agent (who shall provide a copy of such notice to each of the Lenders of the applicable Existing Commitments and which such request shall be offered equally to all such Lenders) (an "Extension Request") setting forth the proposed terms of the Extended Commitments to be established thereunder, which terms shall be substantially similar to those applicable to the Existing Commitments from which they are to be extended (the "Specified Existing Commitment Class") except that (w) all or any of the final maturity dates of such Extended Commitments may be delayed to later dates than the final maturity dates of the Existing Commitments of the Specified Existing Commitment Class, (x)(A) the interest rates, interest margins, rate floors, upfront fees, funding discounts, original issue discounts and premiums with respect to the Extended Commitments may be different from those for the Existing Commitments of the Specified Existing Commitment Class and/or (B) additional fees and/or premiums may be payable to the Lenders providing such Extended Commitments in addition to or in lieu of any of the items contemplated by the preceding clause (A), (y)(1) the undrawn revolving credit commitment fee rate with respect to the Extended Commitments may be different from such rate for Existing Commitments of the Specified Existing Commitment Class and (2) the Extension Amendment may provide for other covenants and terms that apply to any period after the Latest Maturity Date for the Existing Loans (as in effect prior to the effectiveness of such Extension Amendment); provided that, notwithstanding anything to the contrary in this Section 2.14 or otherwise, (1) the borrowing and repayment (other than in connection with a permanent repayment and termination of commitments (which shall be governed by clause (3) below)) of the Extended Loans under any Extended Commitments shall be made on a pro rata basis with any borrowings and repayments of the Existing Loans of the Specified Existing Commitment Class (the mechanics for which may be implemented through the applicable Extension Amendment (as defined below) and may include technical changes

related to the borrowing and replacement procedures of the Specified Existing Commitment Class), (2) assignments and participations of Extended Commitments and Extended Loans shall be governed by the assignment and participation provisions set forth in Section 13.04 and (3) subject to the applicable limitations set forth in Section 4.02, permanent repayments of Extended Loans (and corresponding permanent reduction in the related Extended Commitments) shall be permitted as may be agreed between the Borrower and the Lenders thereof. No Lender shall have any obligation to agree to have any of its Loans or Commitments of any Existing Class converted into Extended Loans or Extended Commitments pursuant to any Extension Request. Any Extended Commitments of any Extension Class shall constitute a separate class of commitments from Existing Commitments of the Specified Existing Commitment Class and from any other Existing Commitments (together with any other Extended Commitments so established on such date).

- (b) The Borrower shall provide the applicable Extension Request at least five (5) Business Days (or such shorter period as the Administrative Agent may determine in its reasonable discretion) prior to the date on which Lenders under the Existing Class are requested to respond, and shall agree to such procedures, if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably, to accomplish the purpose of this Section 2.14. Any Lender (an "Extending Lender") wishing to have all or a portion of its Commitments (or any earlier Extended Commitments) of an Existing Class subject to such Extension Request converted into Extended Commitments shall notify the Administrative Agent (an "Extension Election") on or prior to the date specified in such Extension Request of the amount of its Commitments (and/or any earlier Extended Commitments) which it has elected to convert into Extended Commitments. In the event that the aggregate amount of Commitments (and any earlier Extended Commitments) subject to Extension Elections exceeds the amount of Extended Commitments requested pursuant to the Extension Request, Commitments and (and any earlier Extended Commitments) subject to Extension Elections shall be converted to Extended Commitments on a pro rata basis based on the amount of Commitments (and any earlier Extended Commitments) included in each such Extension Election or as may be otherwise agreed to in the applicable Extension Amendment. Notwithstanding the conversion of any Existing Commitment into an Extended Commitment, such Extended Commitment shall be treated identically to all Existing Commitments of the Specified Existing Commitment Class for purposes of the obligations of a Lender in respect of Letters of Credit under Section 3, except that the applicable Extension Amendment may provide that the last day for issuing Letters of Credit may be extended and the related obligations to issue Letters of Credit may be continued (pursuant to mechanics to be specified in the applicable Extension Amendment) so long as the applicable Issuing Lender, as applicable, have consented to such extensions (it being understood that no consent of any other Lender shall be required in connection with any such extension).
- (c) Extended Commitments shall be established pursuant to an amendment (an "Extension Amendment") to this Agreement (which, notwithstanding anything to the contrary set forth in Section 13.12, shall not require the consent of any Lender other than the Extending Lenders with respect to the Extended Commitments established thereby) executed by the Credit Parties, the Administrative Agent and the Extending Lenders. It is understood and agreed that each Lender hereunder has consented, and shall at the effective time thereof be deemed to consent to each amendment to this Agreement and the other Credit Documents authorized by this Section 2.14 and the arrangements described above in connection therewith. Notwithstanding

anything to the contrary in this <u>Section 2.14(c)</u> and without limiting the generality or applicability of <u>Section 13.12</u> to any Section 2.14 Additional Amendments (as defined below), any Extension Amendment may provide for additional terms and/or additional amendments other than those referred to or contemplated above (any such additional amendment, a "<u>Section 2.14 Additional Amendment</u>") to this Agreement and the other Credit Documents; *provided* that such Section 2.14 Additional Amendments are within the requirements of <u>Section 2.14(a)</u> and do not become effective prior to the time that such Section 2.14 Additional Amendments have been consented to (including, without limitation, pursuant to consents applicable to holders of any Extended Loans provided for in any Extension Amendment) by such of the Lenders, Credit Parties and other parties (if any) as may be required in order for such Section 2.14 Additional Amendments to become effective in accordance with <u>Section 13.12</u>.

- (d) Notwithstanding anything to the contrary contained in this Agreement, (A) on any date on which any class of Existing Commitments is converted to extend the related scheduled maturity date(s) in accordance with paragraph (a) above (an "Extension Date"), in the case of the Existing Commitments of each Extending Lender under any Specified Existing Commitment Class, the aggregate principal amount of such Existing Commitments shall be deemed reduced by an amount equal to the aggregate principal amount of Extended Commitments so converted by such Lender on such date, and such Extended Commitments shall be established as a separate class of revolving credit commitments from the Specified Existing Commitment Class and from any other Existing Commitments (together with any other Extended Commitments so established on such date) and (B) if, on any Extension Date, any Existing Loans of any Extending Lender are outstanding under the Specified Existing Commitment Class, such Existing Loans (and any related participations) shall be deemed to be allocated as Extended Loans (and related participations) in the same proportion as such Extending Lender's Specified Existing Commitments to Extended Commitments.
- (e) No exchange of Loans or Commitments pursuant to any Extension Amendment in accordance with this <u>Section 2.14</u> shall constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement.

SECTION 3. Letters of Credit.

- 3.01 Letters of Credit. (a) On the Effective Date, without further action by any party hereto, each Existing Letter of Credit shall be deemed to have been issued as a Letter of Credit (as defined below) under this Agreement, each Existing Letter of Credit Issuer shall be deemed to have granted to each Lender, and each Lender shall be deemed to have acquired from each Existing Letter of Credit Issuer, an undivided interest and participation, to the extent of such Participant's Percentage, in such Existing Letter of Credit, each drawing or payment made thereunder and the obligations of the Borrower under this Agreement with respect thereto, and any security therefor or guaranty pertaining thereto. Such participations shall be on all the same terms and conditions as participations granted under Section 3.04(a) in all other Letters of Credit issued or to be issued hereunder.
- (b) Subject to and upon the terms and conditions set forth herein, the Borrower and/or any of its Restricted Subsidiaries may request that an Issuing Lender issue, at any time

and from time to time on and after the Effective Date and prior to the 30th day prior to the Maturity Date, for the account of the Borrower and/or any of its Restricted Subsidiaries, a bank guarantee or an irrevocable standby letter of credit, in a form customarily used by such Issuing Lender or in such other form as is reasonably acceptable to such Issuing Lender to support obligations (other than obligations related to (x) any indebtedness that is subordinated to the Obligations and (y) equity interests) of the Borrower and/or any of its Subsidiaries which are reasonably satisfactory to the Issuing Lender (each such bank guarantee or letter of credit, a "Letter of Credit" and, collectively, the "Letters of Credit"). All Letters of Credit shall be issued on a sight basis only. Letters of Credit shall be denominated in Dollars or in one or more Alternative Currencies.

- (c) The Borrower may from time to time request that Letters of Credit be issued in a currency other than Dollars or Naira, provided that such requested currency is a lawful currency that is readily available and freely transferable and convertible into Dollars. Any such request shall be made to the Administrative Agent not later than twenty (20) Business Days (or such other date as may be agreed by the Administrative Agent and the applicable Issuing Lenders, in their sole discretion) prior to the date of the desired issuance of a Letter of Credit denominated in the requested currency. The Administrative Agent shall promptly notify each Issuing Lender thereof. Each Issuing Lender shall notify the Administrative Agent not later than ten (10) Business Days (or such other date as may be agreed by the Administrative Agent and the applicable Issuing Lender, in their sole discretion) after receipt of such request whether it consents, in its sole discretion, to the issuance of Letters of Credit in such requested currency. Any failure by an Issuing Lender to respond to such request within the time period specified in the preceding sentence shall be deemed a refusal by such Issuing Lender to issue Letters of Credit in the requested currency. If one or more Issuing Lenders consent to the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so notify the Borrower and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for Letter of Credit issuances by those Issuing Lenders consenting thereto. If the Administrative Agent shall fail to obtain consent for an additional currency under this Section 3.01(c), the Administrative Agent shall promptly notify the Borrower.
- (d) Subject to and upon the terms and conditions set forth herein, each Issuing Lender agrees that it will, at any time and from time to time on and after the Effective Date and prior to the 30th day prior to the Maturity Date, following its receipt of the respective Letter of Credit Request, issue for the account of the Borrower and/or any of its Restricted Subsidiaries, one or more Letters of Credit as are permitted to remain outstanding hereunder without giving rise to a Default or an Event of Default. Notwithstanding the foregoing, no Issuing Lender shall be under any obligation to issue any Letter of Credit of the types described above or to amend any outstanding Letter of Credit if at the time of such issuance or amendment:
 - (i) any order, judgment or decree of any governmental authority or arbitrator shall purport by its terms to enjoin or restrain such Issuing Lender from issuing such Letter of Credit or any requirement of law applicable to such Issuing Lender or any request or directive (whether or not having the force of law) from any governmental authority with jurisdiction over such Issuing Lender shall prohibit, or request that such Issuing Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Lender with respect to such Letter

of Credit any restriction or reserve or capital requirement (for which such Issuing Lender is not otherwise compensated hereunder) not in effect with respect to such Issuing Lender on the date hereof, or any unreimbursed loss, cost or expense which was not applicable or in effect with respect to such Issuing Lender as of the date hereof and which such Issuing Lender reasonably and in good faith deems material to it;

- (ii) such Issuing Lender shall have received from the Borrower, any other Credit Party or the Required Lenders prior to the issuance of such Letter of Credit notice of the type described in the second sentence of Section 3.03(b); or
- (iii) any Lender is a Defaulting Lender, unless such Issuing Lender has entered into arrangements with the Borrower or such Defaulting Lender satisfactory to such Issuing Lender and the Borrower to eliminate such Issuing Lender's risk with respect to such Defaulting Lender, including by requiring the Borrower to Cash Collateralize such Defaulting Lender's Percentage of Letters of Credit Outstanding (any such arrangements, the "Letter of Credit Back-Stop Arrangements"), or such Issuing Lender is satisfied that any exposure that would result therefrom is eliminated or fully covered by the Commitments of the Non-Defaulting Lenders.

3.02 Maximum Letters of Credit Outstanding; Maturities. Notwithstanding anything to the contrary contained in this Agreement, (i) no Letter of Credit shall be issued the Stated Amount of which, when added to the Letters of Credit Outstanding (exclusive of Unpaid Drawings which are repaid on the date of, and prior to the issuance of, the respective Letter of Credit) at such time would exceed, when added to the aggregate principal amount of all Loans then outstanding, an amount equal to the Total Commitment at such time, (ii) no Letter of Credit shall be issued the Stated Amount of which, when added to the Letters of Credit Outstanding (exclusive of Unpaid Drawings which are repaid on the date of, and prior to the issuance of, the respective Letter of Credit) at such time would exceed either (x) \$300,000,000 (or such lesser amount as is set forth in an applicable Extension Amendment to account for Commitments not extended pursuant to such Extension Amendment) or (y) when added to the aggregate principal amount of all Loans then outstanding, an amount equal to the aggregate of the Total Commitment at such time, (iii) Citibank, N.A., as an Issuing Lender, shall not have any obligation to issue any Letter of Credit if, after giving effect to such issuance, the Letters of Credit Outstanding (exclusive of Unpaid Drawings which are repaid on the date of, and prior to the issuance of, the respective Letter of Credit) with respect to Letters of Credit for which Citibank, N.A. is the Issuing Lender exceeds \$150,000,000, except as may be agreed by Citibank, N.A., as an Issuing Lender, in its sole discretion, and (iv) each Letter of Credit shall by its terms terminate on or before the earlier of (A) the date which occurs 12 months after the date of the issuance thereof (although any such standby Letter of Credit shall be extendible for successive periods of up to 12 months, but, in each case, not beyond the seventh Business Day prior to the Maturity Date, on terms acceptable to the respective Issuing Lender) and (B) 7 Business Days prior to the Maturity Date; provided that any Letter of Credit may contain customary automatic renewal provisions agreed upon by the Borrower and the applicable Issuing Lender pursuant to which the expiration date of such Letter of Credit shall automatically be extended for a period of up to 12 months (but not to a date later than the date that is 7 Business Days prior to the Maturity Date, unless otherwise permitted pursuant to the immediately

succeeding proviso), subject to a right on the part of such Issuing Lender to prevent any such renewal from occurring by giving notice to the beneficiary and the Borrower in advance of any such renewal; <u>provided</u>, <u>further</u> that, with the prior consent of the applicable Issuing Lender, in its sole discretion, a Letter of Credit may be extended beyond the seventh Business Day prior to the Maturity Date (each such Letter of Credit with an expiration date that is later than 7 Business Days prior to the Maturity Date, a "<u>Post-Maturity Letter of Credit</u>") so long as the Borrower shall Post-Maturity Cash Collateralize in accordance with Section 3.07 any Post-Maturity Letter of Credit. For purposes of this Section 3.02, references to issuance of Letters of Credit shall be deemed to refer to any issuance, extension or increase in the Stated Amount thereof.

- 3.03 <u>Letter of Credit Requests; Minimum Stated Amount</u>. (a) Whenever the Borrower desires that a Letter of Credit be issued for its account, the Borrower shall give the Administrative Agent and the respective Issuing Lender at least three Business Days' (or such shorter period as is acceptable to such Issuing Lender) written notice thereof (including by way of facsimile). Each notice shall be in the form of <u>Exhibit N</u>, appropriately completed (each a "<u>Letter of Credit Request</u>").
- (b) The making of each Letter of Credit Request shall be deemed to be a representation and warranty by the Borrower to the Lenders that such Letter of Credit may be issued in accordance with, and will not violate the requirements of, Section 3.02. Unless the respective Issuing Lender has received notice from the Borrower, any other Credit Party or the Required Lenders before it issues a Letter of Credit that one or more of the conditions specified in Section 6 or 7 are not then satisfied, or that the issuance of such Letter of Credit would violate Section 3.02, then such Issuing Lender shall, subject to the terms and conditions of this Agreement, issue the requested Letter of Credit for the account of the Borrower in accordance with such Issuing Lender's usual and customary practices. Upon the issuance of or modification or amendment to any Letter of Credit, each Issuing Lender shall promptly notify the Borrower and the Administrative Agent, in writing of such issuance, modification or amendment and such notice shall be accompanied by a copy of such Letter of Credit or the respective modification or amendment thereto, as the case may be. Promptly after receipt of such notice the Administrative Agent shall notify the Participants, in writing, of such issuance, modification or amendment.
- (c) The initial Stated Amount of each Letter of Credit shall not be less than \$20,000 or such lesser amount as is acceptable to the respective Issuing Lender.
- 3.04 Letter of Credit Participations. (a) Immediately upon the issuance by an Issuing Lender of a Letter of Credit, such Issuing Lender shall be deemed to have sold and transferred to each Lender, and each such Lender (in its capacity under this Section 3.04, a "Participant") shall be deemed irrevocably and unconditionally to have purchased and received from such Issuing Lender, without recourse or warranty, an undivided interest and participation, to the extent of such Participant's Percentage, in such Letter of Credit, each drawing or payment made thereunder and the obligations of the Borrower under this Agreement with respect thereto, and any security therefor or guaranty pertaining thereto. Upon any change in the Commitments or Percentages of the Lenders pursuant to Section 2.12 or 13.04(b), it is hereby agreed that, with respect to all outstanding Letters of Credit and Unpaid Drawings relating thereto, there shall be an automatic adjustment to the participations pursuant to this Section 3.04 to reflect the new Percentages of the assignor and assignee Lender, as the case may be. Upon any change in the

Commitments or Percentages of the Lenders in connection with an Extension Amendment pursuant to Section 2.14, including the termination of the Commitments of any Lenders that are not Extending Lenders, there shall be an automatic adjustment to the participations pursuant to this Section 3.04 to reflect the new Percentages of the Extending Lenders and such non-Extending Lenders.

- (b) In determining whether to pay under a Letter of Credit, no Issuing Lender shall have any obligation relative to the other Lenders other than to confirm that any documents required to be delivered under such Letter of Credit appear to have been delivered and that they appear to substantially comply on their face with the requirements of such Letter of Credit. Any action taken or omitted to be taken by an Issuing Lender under or in connection with any Letter of Credit issued by it shall not create for such Issuing Lender any resulting liability to the Borrower, any other Credit Party, any Lender or any other Person unless such action is taken or omitted to be taken with gross negligence or willful misconduct on the part of such Issuing Lender (as determined by a court of competent jurisdiction in a final and non-appealable decision).
- (c) In the event that any Issuing Lender makes any payment under any Letter of Credit issued by it and the Borrower shall not have reimbursed the Unpaid Drawing in full to such Issuing Lender pursuant to Section 3.05(a), such Issuing Lender shall promptly notify the Administrative Agent, which shall promptly notify each Participant of such failure, and each Participant shall promptly and unconditionally pay to such Issuing Lender the amount of such Participant's Percentage of such Unpaid Drawing in Dollars and in same day funds. If the Administrative Agent so notifies, prior to 11:00 a.m. (New York time) on any Business Day, any Participant required to fund a payment under a Letter of Credit, such Participant shall make available to the respective Issuing Lender in Dollars such Participant's Percentage of the amount of such payment on such Business Day in same day funds. If and to the extent such Participant shall not have so made its Percentage of the amount of such payment available to the respective Issuing Lender, such Participant agrees to pay to such Issuing Lender, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to such Issuing Lender at the overnight Federal Funds Rate for the first three days and at the Base Rate plus 2.00% for each day thereafter. The failure of any Participant to make available to an Issuing Lender its Percentage of any payment under any Letter of Credit issued by such Issuing Lender shall not relieve any other Participant of its obligation hereunder to make available to such Issuing Lender its Percentage of any payment under any Letter of Credit on the date required, as specified above, but no Participant shall be responsible for the failure of any other Participant to make available to such Issuing Lender such other Participant's Percentage of any such payment.
- (d) Whenever an Issuing Lender receives a payment of a reimbursement obligation as to which it has received any payments from the Participants pursuant to clause (c) above, such Issuing Lender shall pay to each such Participant which has paid its Percentage thereof, in Dollars and in same day funds, an amount equal to such Participant's share (based upon the proportionate aggregate amount originally funded by such Participant to the aggregate amount funded by all Participants) of the principal amount of such reimbursement obligation and interest thereon accruing after the purchase of the respective participations.

- (e) Upon the request of any Participant, each Issuing Lender shall furnish to such Participant copies of any standby Letter of Credit issued by it and such other documentation as may reasonably be requested by such Participant.
- (f) The obligations of the Participants to make payments to each Issuing Lender with respect to Letters of Credit shall be irrevocable and not subject to any qualification or exception whatsoever and shall be made in accordance with the terms and conditions of this Agreement under all circumstances, including, without limitation, any of the following circumstances:
 - (i) any lack of validity or enforceability of this Agreement or any of the other Credit Documents;
 - (ii) the existence of any claim, setoff, defense or other right which the Borrower or any of its Subsidiaries may have at any time against a beneficiary named in a Letter of Credit, any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), the Administrative Agent, any Participant, or any other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transactions (including any underlying transaction between the Borrower or any Subsidiary of the Borrower and the beneficiary named in any such Letter of Credit);
 - (iii) any draft, certificate or any other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;
 - (iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Credit Documents; or
 - (v) the occurrence of any Default or Event of Default.
- 3.05 Agreement to Repay Letter of Credit Drawings. (a) The Borrower agrees to reimburse each Issuing Lender, by making payment in Dollars to the Administrative Agent in immediately available funds, and with respect to Letters of Credit denominated in Alternative Currencies, in Dollars in an amount specified by the Administrative Agent, in conjunction with the applicable Issuing Lender, determined by the Administrative Agent and such Issuing Lender in their reasonable discretion, at the Payment Office, for any payment or disbursement made by such Issuing Lender under any Letter of Credit issued by it (each such amount, so paid until reimbursed, an "Unpaid Drawing"), not later than (i) if Borrower and the Administrative Agent shall have received notice of such payment or disbursement from the Issuing Lender prior to 11:00 a.m. (New York time) on any Business Day, then by 2:00 p.m. (New York time) on such Business Day on which such Issuing Lender notifies the Borrower and the Administrative Agent of the date and amount of such payment or disbursement or (ii) otherwise, by 11:00 a.m. (New York time) on the Business Day immediately following the day that the Borrower and the Administrative Agent shall have received such notice from the Issuing Lender (provided that no such notice shall be required to be given if a Default or an Event of Default under Section 11.05 shall have occurred and be continuing, in which case the Unpaid Drawing shall be due and

payable immediately without presentment, demand, protest or notice of any kind (all of which are hereby waived by the Borrower)), with interest on the amount so paid or disbursed by such Issuing Lender, to the extent not reimbursed prior to the times set forth above, from and including the date paid or disbursed to but excluding the date such Issuing Lender was reimbursed by the Borrower therefor at a rate per annum equal to the Base Rate, as in effect from time to time, plus the Applicable Margin as in effect from time to time minus 1.00%; provided, however, to the extent such amounts are not reimbursed prior to 11:00 a.m. (New York time) on the third Business Day following the receipt by the Borrower of notice of such payment or disbursement or following the occurrence of a Default or an Event of Default under Section 11.05, interest shall thereafter accrue on the amounts so paid or disbursed by such Issuing Lender (and until reimbursed by the Borrower) at a rate per annum equal to the Base Rate in effect from time to time plus the Applicable Margin as in effect from time to time plus 1%, with such interest to be payable on demand. Each Issuing Lender shall give the Borrower prompt written notice of each Drawing under any Letter of Credit issued by it, provided that the failure to give any such notice shall in no way affect, impair or diminish the Borrower's obligations hereunder. Notwithstanding the foregoing, the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with a Base Rate Loan in an amount equal to the Unpaid Drawing and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting Base Rate Loan.

(b) The obligations of the Borrower under this Section 3.05 to reimburse each Issuing Lender with respect to drafts, demands and other presentations for payment under Letters of Credit issued by it (each a "<u>Drawing</u>") (including, in each case, interest thereon) shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrower may have or have had against any Lender (including in its capacity as an Issuing Lender or as a Participant), including, without limitation, any defense based upon the failure of any drawing under a Letter of Credit to conform to the terms of the Letter of Credit or any nonapplication or misapplication by the beneficiary of the proceeds of such Drawing; <u>provided</u>, <u>however</u>, that the Borrower shall not be obligated to reimburse any Issuing Lender for any wrongful payment made by such Issuing Lender under a Letter of Credit issued by it as a result of acts or omissions constituting willful misconduct or gross negligence on the part of such Issuing Lender (as determined by a court of competent jurisdiction in a final and non-appealable decision).

3.06 <u>Increased Costs</u>. If at any time after the Effective Date, the introduction or effectiveness of or any change in any applicable law, rule, regulation, treaty, order, guideline or request or in the interpretation or administration thereof by the NAIC or any governmental authority charged with the interpretation or administration thereof, or compliance by any Issuing Lender or any Participant with any request or directive by the NAIC or by any such governmental authority (whether or not having the force of law), shall either (i) impose, modify or make applicable any reserve, deposit, capital adequacy, liquidity requirements or similar requirement against letters of credit issued by any Issuing Lender or participated in by any Participant, or (ii) impose on any Issuing Lender or any Participant any other conditions relating, directly or indirectly, to this Agreement or any Letter of Credit; and the result of any of the foregoing is to increase the cost to any Issuing Lender or any Participant of issuing, maintaining or participating in any Letter of Credit, or reduce the amount of any sum received or receivable

by any Issuing Lender or any Participant hereunder or reduce the rate of return on its capital with respect to Letters of Credit (except for the introduction of, or any change in the rate or basis of taxation of, any Excluded Tax) then, upon the delivery of the certificate referred to below to the Borrower by any Issuing Lender or any Participant (a copy of which certificate shall be sent by such Issuing Lender or such Participant to the Administrative Agent), the Borrower agrees to pay to such Issuing Lender or such Participant such additional amount or amounts as will compensate such Issuing Lender or such Participant for such increased cost or reduction in the amount receivable or reduction on the rate of return on its capital (but without duplication of any amounts payable in respect of Indemnified Taxes pursuant to Section 5.04). Any Issuing Lender or any Participant, upon determining that any additional amounts will be payable pursuant to this Section 3.06, will give prompt written notice thereof to the Borrower, which notice shall include a certificate submitted to the Borrower by such Issuing Lender or such Participant (a copy of which certificate shall be sent by the Issuing Lender or such Participant to the Administrative Agent), setting forth in reasonable detail the basis for the calculation of such additional amount or amounts necessary to compensate such Issuing Lender or such Participant. The certificate required to be delivered pursuant to this Section 3.06 shall, absent manifest error, be final and conclusive and binding on the Borrower.

3.07 Cash Collateralization. (a) If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with aggregate exposure representing greater than 50% of the aggregate Letters of Credit Outstanding) demanding the deposit of cash collateral pursuant to this Section 3.07(a), the Borrower shall Cash Collateralize an amount in cash equal to the aggregate Letters of Credit Outstanding as of such date <u>plus</u> any accrued and unpaid interest thereon; <u>provided</u> that the obligation to Cash Collateralize shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 11.05. Each such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, as defined in the UCC of the State of New York, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Lender for Drawings for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the aggregate Letters of Credit Outstanding at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with aggregate exposure representing greater than 50% of the aggregate Letters of Credit Outstanding), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(b) If any Post-Maturity Letters of Credit remain outstanding as of the date that is ninety (90) days prior to the Maturity Date (such date being referred to herein as the "Cash Collateralization Date"), the Borrower shall, on the Cash Collateralization Date, deposit ("Post-Maturity Cash Collateralize") in an account with each Issuing Bank that has issued any such Post-Maturity Letter of Credit, in the name of such Issuing Bank and for the benefit of such Issuing Bank and, prior to the Maturity Date, the Lenders (each, an "Issuing Bank LC Collateral Account"), an amount in cash equal to 102% of the aggregate maximum face amount (provided, that with respect to any Post-Maturity Letter of Credit denominated in an Alternative Currency, such amount may be increased in the reasonable discretion of the applicable Issuing Lender of such Post-Maturity Letter of Credit) of all outstanding Post-Maturity Letters of Credit issued by such Issuing Bank. In addition, if (x) the Borrower requests that a Post-Maturity Letter of Credit be issued, or a Letter of Credit be renewed (or if any Letter of Credit is automatically renewed for an additional one-year period), such that, after giving effect to such renewal, such Letter of Credit becomes a Post-Maturity Letter of Credit, by an Issuing Bank after the Cash Collateralization Date but before the Maturity Date and (y) such Issuing Bank agrees to issue such Post-Maturity Letter of Credit or renew such Letter of Credit, then, as a condition to such issuance or renewal, the Borrower shall deposit in such Issuing Bank's Issuing Bank LC Collateral Account an amount in cash equal to 102% of the maximum face amount (provided, that with respect to any Post-Maturity Letter of Credit denominated in an Alternative Currency, such amount may be increased in the reasonable discretion of the applicable Issuing Lender of such Post-Maturity Letter of Credit) of such Post-Maturity Letter of Credit to be renewed, as applicable. Any such deposits pursuant to this Section 3.07(b) shall be held by each applicable Issuing Bank in its Issuing Bank LC Collateral Account as collateral for the payment and performance of the obligation of the Borrower to reimburse such Issuing Bank for Drawings for which it has not been reimbursed under each Post-Maturity Letter of Credit issued by such Issuing Bank. Each Issuing Bank shall have exclusive dominion and control, as defined in the UCC of the State of New York, including the exclusive right of withdrawal, over its Issuing Bank LC Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of each Issuing Bank and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in each Issuing Bank LC Collateral Account shall be applied by the applicable Issuing Bank to reimburse such Issuing Bank for Drawings in respect of Post-Maturity Letters of Credit for which it has not been reimbursed, fees related to such Post-Maturity Letters of Credit and, to the extent not so applied, shall be held for the satisfaction of the obligation of the Borrower to reimburse such Issuing Bank for Drawings in respect of Post-Maturity Letters of Credit issued by such Issuing Bank. If an Issuing Bank has issued more than one Post-Maturity Letter of Credit for which cash collateral was provided pursuant to this Section 3.07(b), upon the cancellation, surrender, or payment of any such Post-Maturity Letter of Credit, the Issuing Bank that issued such Post-Maturity Letter of Credit shall promptly release cash collateral to the Borrower equal to the difference between (A) the total available funds in such Issuing Bank's Issuing Bank LC Collateral Account and (B) 102% of the aggregate maximum face amount (or, with respect to Post-Maturity Letters of Credit denominated in an Alternative Currency, such greater amount as the applicable Issuing Lender shall have required to be provided as cash collateral) of all Post-Maturity Letters of Credit issued by such Issuing Bank that remain outstanding. Promptly after the cancellation, surrender, or payment of all Post-Maturity Letters of Credit issued by an Issuing

Bank for which cash collateral was provided pursuant to this Section 3.07(b), such Issuing Bank shall return to the Borrower all available funds, if any, in such Issuing Bank's Issuing Bank LC Collateral Account. This Section 3.07(b) shall survive the termination of this Agreement and the payment of all other amounts owing hereunder. Notwithstanding anything to the contrary contained herein, no Lender shall have any obligation to reimburse an Issuing Lender for Drawings in respect of any Post-Maturity Letter of Credit after the applicable Issuing Lender has accepted cash collateral as set forth in this Section 3.07(b).

- (c) If any time the aggregate Letters of Credit Outstanding shall, as a result of currency fluctuations with respect any Alternative Currency or otherwise, exceed the Total Commitments, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with aggregate exposure representing greater than 50% of the aggregate Letters of Credit Outstanding) demanding the deposit of cash collateral pursuant to this Section 3.07(c), the Borrower shall Cash Collateralize an amount in cash equal to the amount by which the aggregate Letters of Credit Outstanding as of such date exceeds the Total Commitments <u>plus</u> any accrued and unpaid interest thereon. Each such deposit, the interest or profits on the investments of such deposits and moneys in such accounts shall be treated in accordance with the provisions of Section 3.07(a). If the Borrower is required to provide an amount of cash collateral hereunder as a result of the circumstances described in this Section 3.07(c), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after the aggregate Letters of Credit Outstanding no longer exceed the Total Commitment.
- 3.08 Exchange Rates; Currency Equivalents. (a) The Agent or the applicable Issuing Bank, as applicable, shall determine the Spot Rate as of each Revaluation Date to be used for calculating Dollar Equivalent Amounts for any Letter of Credit denominated in an Alternative Currency or the Letter of Credit Exposure. Such Spot Rates shall become effective as of the Revaluation Date and shall be the Spot Rates employed in converting any amounts between the applicable currencies until the next Revaluation Date to occur. The applicable amount of any currency (other than dollars) for purposes of this Agreement and any other agreements, documents or instruments related hereto shall be the Dollar Equivalent Amount as so determined by the Agent or the applicable Issuing Bank, as applicable.
- (b) Whenever in this Agreement in connection with the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Letter of Credit is denominated in an Alternative Currency, such amount shall be the Alternative Currency Equivalent Amount of such dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as reasonably determined by the Agent or the applicable Issuing Bank, as applicable.

SECTION 4. Commitment Fee; Fees; Reductions of Commitment.

4.01 Fees . (a) The Borrower agrees to pay to the Administrative Agent for distribution to each Lender (subject to Section 2.13 in respect of any Defaulting Lender) with a Commitment, a commitment fee (the "Commitment Fee") for the period from and including the Effective Date to and excluding the Maturity Date (or such earlier date on which the Total Commitment has been terminated), computed at a rate per annum equal to the Applicable Margin

as in effect from time to time in respect of commitment fees <u>multiplied</u> by the unutilized Commitment of such Lender. Accrued Commitment Fees shall be due and payable quarterly in arrears on each Quarterly Payment Date and on the Maturity Date (or such earlier date upon which the Total Commitment is terminated).

- (b) The Borrower agrees to pay to the Administrative Agent for distribution to each Lender (based on each such Lender's respective Percentage), a fee in respect of each Letter of Credit (the "Letter of Credit Fee") for the period from and including the date of issuance of such Letter of Credit to and including the date of termination or expiration of such Letter of Credit, computed at a rate per annum equal to the difference between (x) the Applicable Margin for Eurodollar Rate Loans in effect from time to time minus (y) 1.00%, multiplied by the Stated Amount of each such Letter of Credit. Accrued Letter of Credit Fees shall be due and payable quarterly in arrears on each Quarterly Payment Date and on the Maturity Date (or such earlier date upon which the Total Commitment is terminated and upon which no Letters of Credit remain outstanding).
- (c) In addition to the foregoing Letter of Credit Fee, the Borrower shall pay to the applicable Issuing Lender, for its own account, the facing fees set forth in any fee letter entered into between the Borrower and such Issuing Lender (the "Facing Fee"). Such Facing Fee shall be due and payable quarterly in arrears on each Quarterly Payment Date and upon the first day on or after the termination of the Total Commitment upon which no Letters of Credit remain outstanding.
- (d) The Borrower agrees to pay to each Issuing Lender, for its own account, upon each payment under, issuance of, or amendment to, any Letter of Credit issued by it, such amount as shall at the time of such event be the customary administrative charge and the reasonable expenses which such Issuing Lender is generally imposing in connection with such occurrence with respect to letters of credit.
- (e) The Borrower agrees to pay to the Administrative Agent such fees as may be agreed to in writing from time to time by the Borrower and the Administrative Agent.
- 4.02 Voluntary Termination of Total Unutilized Commitments . Upon at least three Business Days' prior written notice from an Authorized Representative of the Borrower to the Administrative Agent at the Notice Office (which notice the Administrative Agent shall promptly transmit to each of the Lenders), the Borrower shall have the right, at any time or from time to time, without premium or penalty, to terminate the Total Unutilized Commitment of any Class on a pro rata basis in whole, or reduce it in part, pursuant to this Section 4.02, in an aggregate amount of at least \$10,000,000 or any whole multiple of \$1,000,000 in excess thereof; provided that with respect to the Total Unutilized Commitments, any such termination or reduction shall apply proportionately and permanently to reduce the Commitments of each of the Lenders of such Class, except that, notwithstanding the foregoing, (1) the Borrower may allocate any termination or reduction of Commitments among classes of Commitments either (A) ratably among Classes or (B) first to the Commitments with respect to any Existing Commitments and second to any Extended Commitments and (2) in connection with the establishment on any date of any Extended Commitments on such date shall be reduced in an

amount equal to the amount of Specified Existing Commitments so extended on such date (provided that (x) after giving effect to any such reduction and to the repayment of any Loans made on such date, the total exposure of any such Lender does not exceed the Commitment thereof (such total exposure and Commitment being determined in each case, for the avoidance of doubt, exclusive of such Lender's Extended Commitment and any exposure in respect thereof) and (y) for the avoidance of doubt, any such repayment of Loans contemplated by the preceding clause shall be made in compliance with the requirements of Section 5.03 with respect to the ratable allocation of payments hereunder, with such allocation being determined after giving effect to any conversion pursuant to Section 2.14 of Existing Commitments and Existing Loans into Extended Commitments and Extended Loans respectively, and prior to any reduction being made to the Commitment of any other Lender).

4.03 <u>Mandatory Reduction of Commitments</u>. (a) In addition to any other mandatory commitment reductions pursuant to this Section 4.03, the Total Commitment (and the Commitment of each Lender) shall terminate in its entirety on the Maturity Date.

- (b) In addition to any other mandatory commitment reductions pursuant to this Section 4.03, (i) for any Asset Disposition that constitutes a Collateral Disposition, the Borrower shall make mandatory principal prepayments of the Loans in the manner set forth in Section 4.03(d) in an amount equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from such Collateral Disposition and (ii) for any Asset Disposition that does not constitute a Collateral Disposition, the Borrower shall make mandatory principal prepayments of the Loans in the manner set forth in Section 4.03(d) in an amount equal to one hundred percent (100%) of the aggregate Net Cash Proceeds from any Asset Disposition minus the amount of such Net Cash Proceeds required to be used for a mandatory prepayment of any other Indebtedness permitted under Section 10.04, to the extent such Net Cash Proceeds are actually repaid or reinvested in accordance with the terms of such other Indebtedness. Such prepayments shall be made within three (3) Business Days after the date of receipt of Net Cash Proceeds of any such Asset Disposition(s) by such Credit Party or any of its Restricted Subsidiaries; provided that, in each case, so long as no Default or Event of Default has occurred and is continuing, no prepayment shall be required under this Section with respect to an Asset Disposition that does not constitute a Collateral Disposition to the extent that the Borrower delivers a certificate to the Administrative Agent prior to the date of any such required prepayment stating that a Credit Party intends to reinvest Net Cash Proceeds of any Asset Disposition (other than in respect of a Collateral Disposition) in assets used or useful in the business of the Borrower and its Restricted Subsidiaries within 365 days after receipt of such Net Cash Proceeds by such Credit Party or such Restricted Subsidiary; provided further that any portion of such Net Cash Proceeds not actually reinvested as set forth above within such 365-day period shall be prepaid in accordance with this Section on or before the last day of such 365day period, unless such Credit Party or such Restricted Subsidiary has entered into a binding commitment with respect to any such reinvestment within such 365-day period, in which case, such prepayment with any portion of such Net Cash Proceeds not actually reinvested as set forth above shall not be required under this Section until the date, if later, that is 365 days after the date of such commitment.
- (c) In addition to any other mandatory commitment reductions pursuant to this Section 4.03, the Borrower shall make mandatory principal prepayments of the Loans in the manner set forth in Section 4.03(d) in an amount equal to one hundred percent (100%) of the

aggregate Net Cash Proceeds from any Debt Issuance by any Credit Party or any of its Restricted Subsidiaries (other than any Indebtedness permitted pursuant to Section 10.04). Such prepayment shall be made within three (3) Business Days after the date of receipt of the Net Cash Proceeds of any such Debt Issuance.

(d) Each mandatory commitment reduction or termination pursuant to Sections 4.03 (b) and (c) shall be applied to proportionately reduce or terminate, as the case may be, the Commitment of each Lender.

SECTION 5. Prepayments; Payments; Taxes.

- 5.01 <u>Voluntary Prepayments</u>. The Borrower shall have the right to prepay the Loans, without premium or penalty, in whole or in part at any time and from time to time on the following terms and conditions:
 - (i) an Authorized Representative of the Borrower shall give the Administrative Agent prior to 12:00 Noon (New York time) at the Notice Office at least three Business Days prior written notice (or telephonic notice promptly confirmed in writing) of its intent to prepay such Loans, which notice (in each case) shall specify the amount of such prepayment and which notice the Administrative Agent shall promptly transmit to each of the Lenders;
 - (ii) partial prepayments shall be in an aggregate amount of \$500,000 or a whole multiple of \$100,000 in excess thereof with respect to Base Rate Loans and \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof with respect to Eurodollar Rate Loans, and shall be applied on a pro rata basis to the outstanding amount of the Loans included in such prepayment; and
 - (iii) at the time of any prepayment of Loans pursuant to this Section 5.01 on any date other than the last day of the Interest Period applicable thereto, the Borrower shall pay the amounts required to be paid pursuant to Section 2.10.

Notwithstanding the foregoing (and as provided in <u>clause (1)</u> of the proviso to <u>Section 2.14(a)</u>), the Borrower may not prepay Extended Loans of any Extension Series unless such prepayment is accompanied by a pro rata repayment of Existing Loans of the Specified Existing Commitment Class of the Existing Class from which such Extended Loans and Extended Commitments were converted (or such Loans and Commitments of the Existing Class have otherwise been repaid and terminated in full).

5.02 Mandatory Repayments . (a) On any day on which the sum of (I) the aggregate outstanding principal amount of Loans (after giving effect to all other repayments thereof on such date) and (II) the aggregate amount of all Letters of Credit Outstanding under the Revolving Facility exceeds the Total Commitment at such time, the Borrower shall repay on such date the principal of Loans in an amount equal to such excess. If, after giving effect to the repayment of all outstanding Loans, the aggregate amount of the Letters of Credit Outstanding under the Revolving Facility exceeds the Total Commitment at such time, the Borrower shall pay to the Administrative Agent at the Payment Office on such day an amount of cash and/or Cash

Equivalents equal to the amount of such excess (up to a maximum amount equal to the Letters of Credit Outstanding under the Revolving Facility at such time), such cash and/or Cash Equivalents to be held as security for all obligations of the Borrower to the Issuing Lenders and the Lenders in a cash collateral account to be established by the Administrative Agent.

- (b) On any day on which the aggregate outstanding principal amount of Loans (after giving effect to all other repayments thereof on such date) exceeds an amount equal to (I) \$200,000,000 (or such lesser amount as is set forth in an applicable Extension Amendment to account for Commitments not extended pursuant to such Extension Amendment) <u>plus</u> (II) the aggregate outstanding amount of any Loans the proceeds of which were used to repay Unpaid Drawings under the Revolving Facility, the Borrower shall repay on such date the principal of Loans in an amount equal to such excess.
- (c) With respect to each repayment of Loans required by this Section 5.02, the Borrower may designate the specific Borrowing or Borrowings to which such repayment shall apply, <u>provided</u> that (i) repayments of Loans pursuant to this Section 5.02 may only be made on the last day of an Interest Period applicable thereto unless all Loans with Interest Periods ending on such date of required repayment have been paid in full and (ii) each repayment of Loans made pursuant to a Borrowing shall be applied <u>pro rata</u> among such Loans. In the absence of a designation by the Borrower as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in its sole discretion.
- (d) Notwithstanding anything to the contrary contained elsewhere in this Agreement, all then outstanding Loans shall be repaid in full on the Maturity Date.
- 5.03 Method and Place of Payment. Except as otherwise specifically provided herein, all payments under this Agreement and under any Note shall be made to the Administrative Agent for the account of the Lender or Lenders entitled thereto not later than 12:00 Noon (New York time) on the date when due and shall be made in Dollars in immediately available funds at the Payment Office. Any payments under this Agreement or under any Note which are made later than 12:00 Noon (New York time) on any day shall be deemed to have been made on the next succeeding Business Day. Whenever any payment to be made hereunder or under any Note shall be stated to be due on a day which is not a Business Day, the due date thereof shall be extended to the next succeeding Business Day and, with respect to payments of principal, interest shall be payable at the applicable rate during such extension.
- 5.04 <u>Net Payments; Taxes</u>. (a) All payments made by any Credit Party hereunder or under any other Credit Document will be made without setoff, counterclaim or other defense.
- (b) Any and all payments by or on account of any obligation of any Credit Party under any Credit Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such

Tax is an Indemnified Tax, then the sum payable by the applicable Credit Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings of Indemnified Taxes applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

- (c) The Credit Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.
- (d) The Credit Parties shall jointly and severally indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that the Borrower shall not be required to indemnify a Recipient pursuant to this Section 5.04(d) for any Indemnified Taxes unless such Recipient (or the Administrative Agent, on such Recipient's behalf) notifies the Borrower of the indemnification claim for such Indemnified Taxes no later than nine months after the earlier of (i) the date on which the relevant Governmental Authority makes written demand upon such Recipient for payment of such Indemnified Taxes, and (ii) the date on which such Recipient has made payment of such Indemnified Taxes to the relevant Governmental Authority (except that, if the Indemnified Taxes imposed or asserted giving rise to such claims is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof). A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.
- (e) Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Credit Parties to do so), and (ii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Credit Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).
- (f) As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority pursuant to this Section 5.04, such Credit Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

- (g) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Credit Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation shall not be required if in the Lender's reasonable judgment, exercised in good faith, such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.
- (h) If a payment made to a Recipient under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Recipient were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Recipient shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Recipient has complied with such Recipient's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (h), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.
- (i) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.04 (including by the payment of additional amounts pursuant to this Section 5.04), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.04 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority.

Notwithstanding anything to the contrary in this paragraph (h), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (h) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

- (j) Each party's obligations under this Section 5.04 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Credit Document.
- (k) For purposes of this Section 5.04, the term "Lender" includes any Issuing Lender or Existing Letter of Credit Issuer and the term "applicable law" includes FATCA.
- 5.05 Application of Proceeds. (a) All monies collected by the Administrative Agent (whether received from the Pari Passu Collateral Agent or otherwise) upon any sale or other disposition of the Collateral of each Credit Party, together with all other monies received by the Administrative Agent (whether received from the Pari Passu Collateral Agent or otherwise) under and in accordance with this Agreement and the other Credit Documents (including, without limitation, as a result of any distribution in respect of the Collateral in any bankruptcy, insolvency or similar proceeding) (except to the extent released in accordance with the applicable provisions of this Agreement or any other Credit Document), shall be applied to the payment of the Secured Obligations as follows:
 - (i) <u>first</u>, to the payment of all amounts owing to the Administrative Agent of the type described in clauses (iii) and (iv) of the definition of "Secured Obligations";
 - (ii) <u>second</u>, to the extent proceeds remain after the application pursuant to the preceding clause (i), an amount equal to the outstanding Obligations shall be paid to the Lenders as provided in Section 5.05(d) hereof, with each Lender Creditor receiving an amount equal to the outstanding Obligations owing to such Lender Creditor or, if the proceeds are insufficient to pay in full all such Obligations, its Pro Rata Share of the amount remaining to be distributed;
 - (iii) third, to the extent proceeds remain after the application pursuant to the preceding clauses (i) and (ii), an amount equal to the outstanding Other Obligations shall be paid to the Other Creditors as provided in Section 5.05(d) hereof, with each Other Creditor receiving an amount equal to such outstanding Other Obligations owing to such Other Creditor or, if the proceeds are insufficient to pay in full all such Other Obligations, its Pro Rata Share of the amount remaining to be distributed; and
 - (iv) <u>fourth</u>, to the extent proceeds remain after the application pursuant to the preceding clauses (i) through (iii), inclusive, and following the termination of this Agreement and the Credit Documents in accordance with their terms, to the relevant Credit Party or to whomever may be lawfully entitled to receive such surplus.

- (b) For purposes of this Agreement, "Pro Rata Share" shall mean, when calculating a Secured Creditor's portion of any distribution or amount, that amount (expressed as a percentage) equal to a fraction the numerator of which is the then unpaid amount of such Secured Creditor's Obligations or Other Obligations, as the case may be, and the denominator of which is the then outstanding amount of all Obligations or Other Obligations, as the case may be.
- (c) When payments to Secured Creditors are based upon their respective Pro Rata Shares, the amounts received by such Secured Creditors hereunder shall be applied (for purposes of making determinations under this Section 5.05 only) (i) <u>first</u>, to their Obligations and (ii) <u>second</u>, to their Other Obligations. If any payment to any Secured Creditor of its Pro Rata Share of any distribution would result in overpayment to such Secured Creditor, such excess amount shall instead be distributed in respect of the unpaid Obligations or Other Obligations, as the case may be, of the other Secured Creditors, with each Secured Creditor whose Obligations or Other Obligations, as the case may be, have not been paid in full to receive an amount equal to such excess amount multiplied by a fraction the numerator of which is the unpaid Obligations or Other Obligations, as the case may be, of such Secured Creditor and the denominator of which is the unpaid Obligations or Other Obligations, as the case may be, of all Secured Creditors entitled to such distribution.
- (d) All payments required to be made hereunder shall be made (x) if to the Lender Creditors, to the Administrative Agent under this Agreement for the account of the Lender Creditors, and (y) if to the Other Creditors, to the trustee, paying agent or other similar representative (each a "Representative") for the Other Creditors or, in the absence of such a Representative, directly to the Other Creditors.
- (e) For purposes of applying payments received in accordance with this Section 5.05, the Administrative Agent shall be entitled to rely upon (i) the Administrative Agent's records under this Agreement and (ii) the Representative for the Other Creditors or, in the absence of such a Representative, upon the Other Creditors for a determination (which each Representative for any Other Creditors and the Secured Creditors agree (or shall agree) to provide upon request of the Administrative Agent) of the outstanding Obligations and Other Obligations owed to the Lender Creditors or the Other Creditors, as the case may be. Unless it has actual knowledge (including by way of written notice from an Other Creditor) to the contrary, the Administrative Agent, shall be entitled to assume that no Interest Rate Protection Agreements or Other Hedging Agreements are in existence.
- (f) It is understood and agreed that the Credit Parties shall remain jointly and severally liable to the extent of any deficiency between the amount of the proceeds of the Collateral pledged and Liens granted by it under and pursuant to the Security Documents and the aggregate amount of the Secured Obligations of such Credit Party.

- SECTION 6. <u>Conditions Precedent to Effective Date</u>. The obligation of each Lender to make Loans, and the obligation of each Issuing Lender to issue Letters of Credit under the Revolving Facility, shall become effective on and as of the first date (the "<u>Effective Date</u>") on which the following conditions have been satisfied or waived in accordance with Section 13.12:
- 6.01 <u>Credit Documents</u>. The Administrative Agent and/or the Pari Passu Collateral Agent, as applicable, shall have received duly authorized, executed and delivered counterparts of (a) this Agreement, (b) Notes executed by the Borrower, for the account of each of the Lenders that has requested same, in each case in the amount, maturity and as otherwise provided herein, (c) the Intercreditor Agreement and (d) each other applicable Credit Document, in each case in form reasonably satisfactory to the Administrative Agent.
- 6.02 Fees, etc. The Borrower shall have paid (i) all fees due and payable under the Fee Letters and (ii) all other accrued costs, fees and expenses that are due and payable under the Credit Documents (including reasonable legal fees and expenses and the reasonable fees and expenses of any other advisors) for which an invoice has been provided to the Borrower at least one Business Day before the Effective Date and any other compensation, if any, payable to the Administrative Agent, the Lead Arrangers and the Lenders.
- 6.03 Officer's Certificate. The Administrative Agent shall have received a certificate, dated the Effective Date, and signed on behalf of the Borrower by an Authorized Representative of the Borrower certifying on behalf of the Borrower that all of the conditions set forth in Sections 6.06, 6.07 and 7.01 have been satisfied on such date
- 6.04 <u>Collateral and Guaranty Requirements</u>. The Collateral and Guaranty Requirements shall have been satisfied, and each Credit Document shall be in full force and effect, or the Administrative Agent shall have waived such requirements and/or conditioned such waiver on the satisfaction of such requirements within a specified period of time.
- 6.05 Consummation of the Refinancing . The Administrative Agent shall have received satisfactory evidence that the Refinancing has been, or substantially simultaneously with the Effective Date will be, consummated and that all security interests in respect of, and Liens securing, the Indebtedness under the PFA and/or the Temporary Importation Bond Facilities created pursuant to the security documentation relating thereto shall have been terminated and released (or releases in respect of such Liens shall have been delivered to the Administrative Agent), and the Administrative Agent shall have received all such releases as may have been reasonably requested by the Administrative Agent, which releases shall be in form and substance reasonably satisfactory to the Administrative Agent. Without limiting the foregoing, there shall have been delivered to the Administrative Agent (i) the Form UCC-3 Termination Statements required pursuant to the definition of "Collateral and Guaranty Requirements", (ii) terminations or releases of all mortgages and (iii) reassignments of insurances and charter hire, drilling contracts, revenues and earnings, as applicable, in each case, to secure the obligations under the Existing PFA, all of which shall be in form and substance reasonably satisfactory to the Administrative Agent.

- 6.06 <u>Senior Term Loan and Senior Notes.</u> The Borrower shall, substantially simultaneously with the Effective Date, receive approximately \$1,500,000,000 (before deduction of OID, fees and expenses) in the aggregate from either, or a combination of both, of (a) borrowings under the Senior Term Loan and (b) the issuance of the Senior Notes.
- 6.07 No Material Adverse Effect; Approvals. (a) Since December 31, 2012, there shall not have occurred a Material Adverse Effect or any event or condition that has had, or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.
- (b) All necessary governmental (domestic and foreign) and third party approvals and/or consents in connection with the transactions contemplated hereby and by the other Credit Documents shall have been obtained and remain in effect, and all applicable waiting periods with respect thereto shall have expired without any action being taken by any competent authority which, in the reasonable judgment of the Administrative Agent, restrains, prevents or imposes materially adverse conditions upon the consummation of the Transactions or the other transactions contemplated by the Credit Documents or otherwise referred to herein or therein. On the Effective Date, there shall not exist any judgment, order, injunction or other restraint issued or filed or a hearing seeking injunctive relief or other restraint pending or notified prohibiting or imposing materially adverse conditions upon the Transactions or the other transactions contemplated by the Credit Documents or otherwise referred to herein or therein.
- 6.08 <u>Certificate of Financial Officer</u>. The Administrative Agent shall have received a certificate from the chief financial officer or the treasurer of the Borrower, in form and substance reasonably acceptable to the Administrative Agent, addressed to the Administrative Agent and each of the Lenders and dated the Effective Date, certifying that, on and as of the Effective Date, and after giving effect to the Transaction and to all Indebtedness (including the Loans) being incurred or assumed and Liens created by the Credit Parties in connection therewith, (i) the Borrower will be in pro forma compliance with the financial covenants contained in Section 10.08 and (ii) (x) the sum of the assets, at a fair valuation, of the Borrower, on an individual basis, and of the Borrower and its Subsidiaries, taken as a whole, will exceed their respective debts, (y) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, have not incurred and do not intend to incur, and do not believe that they will incur, debts beyond their respective ability to pay such debts as such debts mature, and (z) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, will have sufficient capital with which to conduct their respective businesses.
- 6.09 <u>Financial Statements</u>. The Lead Arrangers shall have received (i) audited consolidated financial statements of the Borrower and its subsidiaries for each of the three fiscal years immediately preceding the Effective Date, consisting of a consolidated balance sheet and related consolidated statements of operations, comprehensive income (loss), shareholders' equity and cash flows for such fiscal years; and (ii) unaudited consolidated financial statements for any interim period or periods of the Borrower and its subsidiaries ended after the date of the most recent audited consolidated financial statements and more than 75 calendar days prior to the Effective Date, consisting of a consolidated balance sheet and related consolidated statements of operations, comprehensive income (loss), shareholders' equity and cash flows for the three-, six-, or nine-month period, as applicable.

- 6.10 Secretary's or Assistant Secretary's Certificates. The Administrative Agent shall have received a certificate, dated the Effective Date and reasonably acceptable to the Administrative Agent, signed by an Authorized Representative of each Credit Party, and attested to by the secretary or any assistant secretary (or, (x) if there is no secretary or assistant secretary, an Authorized Representative, or (y) with respect to any Credit Party organized under the laws of Luxembourg, a manager or director, as applicable) of such Credit Party (other than the Authorized Representative of such Credit Party signing the certificate of such Credit Party), as the case may be, certifying (i) as to the incumbency and genuineness of the signature of each Credit Party executing Loan Documents to which it is a party and (ii) that attached thereto are true, correct and complete copies of (A) the articles or certificate of incorporation, formation or other organizational document, as applicable, of such Credit Party, and all amendments thereto, certified as of a recent date by the appropriate governmental officials in its jurisdiction of incorporation or formation, as applicable, (B) the bylaws or other governing documents, as applicable, of such Credit Party as in effect on the Effective Date and (C) resolutions duly authorized by the board of directors (or other governing body) of such Credit Party authorizing and approving the execution and delivery of, and performance under, this Agreement and the other Credit Documents to which such Credit Party is a party.
- 6.11 <u>Certificates of Good Standing</u>. The Administrative Agent shall have received certificates as of a recent date of the good standing (or similar status) of each Credit Party under the laws of its jurisdiction of organization to the extent applicable in such jurisdiction.
- 6.12 Opinions of Counsel. The Administrative Agent shall have received from (a) U.S. counsel to each of the Credit Parties (which shall be Vinson & Elkins LLP or another law firm reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, (b) Luxembourg counsel to the Credit Parties (which shall be Wildgen, Partners in Law or another law firm qualified to render an opinion as to Luxembourg law reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, (c) the Republic of Liberia counsel to the Credit Parties (which shall be Fulbright & Jaworski L.L.P. or another law firm qualified to render an opinion as to the law of the Republic of Liberia reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, and (d) the Federal Republic of Nigeria counsel to the Credit Parties (which shall be Adepetun Caxton-Martins Agbor & Segun or another law firm qualified to render an opinion as to the law of the Federal Republic of Nigeria reasonably acceptable to the Administrative Agent), an opinion covering such matters as the Administrative Agent may reasonably request, each such opinion to be addressed to the Pari Passu Collateral Agent, the Administrative Agent, the Issuing Lenders and the Lenders (and expressly permitting reliance by permitted successors and assigns of the addressees thereof) and dated as of the Effective Date.
- 6.13 <u>PATRIOT Act</u>. Each Credit Party shall have provided the documentation and other information to the Administrative Agent that are required by regulatory authorities under the applicable "know your customer" rules and regulations, including the PATRIOT Act, at least two Business Days in advance of the Effective Date, to the extent requested at least five Business Days in advance thereof.

SECTION 7. <u>Conditions Precedent to All Credit Events</u>. The obligation of each Lender to make Loans (including any Loans made on the Effective Date), and the obligation of each Issuing Lender to issue Letters of Credit (including Letters of Credit issued or deemed issued under the Revolving Facility on the Effective Date) are subject, at the time of each such Credit Event, to the satisfaction of the following conditions:

- 7.01 No Default; Representations and Warranties; No Material Adverse Effect. At the time of each Credit Event and also after giving effect thereto (i) there shall exist no Default or Event of Default, (ii) all representations and warranties contained herein and in each other Credit Document shall be true and correct in all material respects with the same effect as though such representations and warranties had been made on the date of such Credit Event, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects on and as of such date (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct, only as of such specified date) and (iii) since December 31, 2012, there shall not have occurred a Material Adverse Effect or any event or condition that has had, or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.
- 7.02 <u>Notice of Borrowing; Letter of Credit Request</u>. (a) Prior to the making of each Loan, the Administrative Agent shall have received the Notice of Borrowing meeting the requirements of Section 2.03(a).
 - (b) Prior to the issuance of each Letter of Credit, the Administrative Agent and the respective Issuing Lender shall have received a Letter of Credit Request meeting the requirements of Section 3.03(a).

The acceptance by the Borrower of the benefits of each Credit Event shall constitute a representation and warranty by the Borrower to the Administrative Agent and each of the Lenders that the conditions specified in Section 7.01 have been satisfied as of the date of the applicable Credit Event. All of the Notes, certificates, legal opinions and other documents and papers referred to in Section 6 and in this Section 7, unless otherwise specified, shall be delivered to the Administrative Agent at the Notice Office for the account of each of the Lenders and, except for the Notes, in sufficient counterparts or copies for each of the Lenders and shall be in form and substance reasonably satisfactory to the Administrative Agent.

SECTION 8. Representations, Warranties and Agreements. In order to induce the Lenders to enter into this Agreement and to make the Loans and issue and/or participate in the Letters of Credit as provided herein, the Borrower hereby makes the following representations, warranties and agreements, in each case on the Effective Date, all of which shall survive the execution and delivery of this Agreement and the Notes and the making of the Loans and the issuance of the Letters of Credit, with the occurrence of each Credit Event on or after the Effective Date being deemed to constitute a representation and warranty that the matters specified in this Section 8 are true and correct in all material respects on and as of the Effective

Date and on the date of each such other Credit Event, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct in all respects on and as of such date (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct, only as of such specified date).

8.01 Corporate/Limited Liability Company/Limited Partnership Status. Each of the Borrower and its Restricted Subsidiaries (other than any Inactive Subsidiary) (i) is a duly organized or incorporated and validly existing corporation, limited liability company, limited partnership, company or other business entity, as the case may be, in good standing under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or other applicable power and authority to own its property and assets and to transact the business in which it is engaged and presently proposes to engage and (iii) is duly qualified and is authorized to do business and is in good standing in each jurisdiction where the ownership, leasing or operation of its property or the conduct of its business requires such qualifications, except for failures to be so qualified which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Except to the extent permitted by this Agreement, neither the Borrower nor any of its Restricted Subsidiaries has taken any corporate action nor have any other steps been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened in writing against any of them for winding up, or dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of any of them or any or all of their assets or revenues nor have they sought any other relief under any applicable insolvency or bankruptcy law.

8.02 <u>Corporate Power and Authority</u>. Each Credit Party has the corporate or other applicable power and authority to execute, deliver and perform the terms and provisions of each of the Credit Documents to which it is party and has taken all necessary corporate or other applicable action to authorize the execution, delivery and performance by it of each of such Credit Documents. Each Credit Party has duly executed and delivered each of the Credit Documents to which it is party, and each of such Credit Documents constitutes its legal, valid and binding obligation enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).

8.03 No Violation. Neither the execution, delivery or performance by any Credit Party of the Credit Documents to which it is a party, nor compliance by it with the terms and provisions thereof, (i) will contravene in any material respect any applicable provision of any law, statute, rule or regulation or any order, writ, injunction or decree of any court or governmental instrumentality, (ii) will conflict in any material respect with or result in any material breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien (except pursuant to the Security Documents) upon any of the properties or assets of any Credit Party pursuant to the terms of any indenture, mortgage, deed of trust, credit agreement or loan

agreement, or any other material agreement, contract or instrument, in each case to which any Credit Party is a party or by which it or any of its property or assets is bound or to which it may be subject or (iii) will violate any provision of the certificate or articles of incorporation or by-laws (or equivalent organizational documents) of any Credit Party.

- 8.04 <u>Governmental Approvals</u>. No order, consent, approval, license, authorization or validation of, or filing, recording or registration with (except for those that have otherwise been obtained or made on or prior to the Effective Date), or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to be obtained or made by, or on behalf of, any Credit Party to authorize, or is required to be obtained or made by, or on behalf of, any Credit Party in connection with, (i) the execution, delivery and performance of any Credit Document or (ii) the legality, validity, binding effect or enforceability of any Credit Document.
- 8.05 <u>Financial Statements</u>; <u>Financial Condition</u>; <u>Undisclosed Liabilities</u>; <u>Projections</u>; <u>etc.</u> (a) The audited and unaudited financial statements delivered pursuant to Section 6.09, present fairly in all material respects the consolidated financial position of the Borrower and its consolidated Subsidiaries at the dates of the balance sheets contained therein and the consolidated results of the operations of the Borrower and its consolidated Subsidiaries for the periods covered thereby. All of the foregoing historical financial statements have been prepared in accordance with GAAP (except, in the case of the aforementioned quarterly financial statements, for normal year-end audit adjustments and the absence of footnotes).
 - (b) On and as of the Effective Date, and after giving effect to the Transaction and to all Indebtedness (including the Loans) being incurred or assumed and Liens created by the Credit Parties in connection therewith, (i) the sum of the assets, at a fair valuation, of the Borrower, on an individual basis, and of the Borrower and its Subsidiaries, taken as a whole, will exceed their respective debts, (ii) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, have not incurred and do not intend to incur, and do not believe that they will incur, debts beyond their respective ability to pay such debts as such debts mature, and (iii) the Borrower, on an individual basis, and the Borrower and its Subsidiaries, taken as a whole, will have sufficient capital with which to conduct their respective businesses. For purposes of this Section 8.05(b), "debt" means any liability on a claim, and "claim" means (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, disputed, undisputed, legal, equitable, secured, or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.
 - (c) Except as fully disclosed in the financial statements referred to in Section 8.05(a), there were as of the Effective Date no liabilities or obligations with respect to the Borrower or any of its Subsidiaries of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether or not due) which, either individually or in the

aggregate, could reasonably be expected to be material to the Borrower and its Subsidiaries taken as a whole. As of the Effective Date, the Borrower does not know of any reasonable basis for the assertion against it or any of its Subsidiaries of any liability or obligation of any nature whatsoever that is not fully disclosed in the financial statements referred to in Section 8.05(a) which, either individually or in the aggregate, could reasonably be expected to be material to the Borrower and its Subsidiaries taken as a whole.

- (d) On and as of the Effective Date, the Projections which have been delivered to the Administrative Agent and the Lenders prior to the Effective Date have been prepared in good faith and are based on reasonable assumptions, and there are no statements or conclusions in any of the Projections which are based upon or include information known to the Borrower to be misleading in any material respect or which fail to take into account material information known to the Borrower regarding the matters reported therein; it being recognized by the Lenders, however., that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by the Projections may differ from the projected results.
- (e) Since December 31, 2012, there has been no change in the operations, business, properties, or financial condition of the Borrower or any of its Restricted Subsidiaries taken as a whole that has had, or would reasonably be expected to have a Material Adverse Effect.
- 8.06 <u>Litigation</u>. There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened (i) with respect to the Transaction or any Credit Document or (ii) that would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.
- 8.07 True and Complete Disclosure. All information (taken as a whole), other than Projections and other forward-looking information, furnished by or on behalf of the Borrower or its Subsidiaries in writing to the Administrative Agent or any Lender (including, without limitation, all information contained in the Credit Documents) for purposes of or in connection with this Agreement, the other Credit Documents or any transaction contemplated herein or therein is, and all other such factual information (taken as a whole), other than Projections and other forward-looking information, hereafter furnished by or on behalf of the Borrower or any of its Subsidiaries in writing to the Administrative Agent or any Lender will be, true and accurate in all material respects on the date as of which such information is dated or certified, not contain any untrue statement of a material fact and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided.
- 8.08 <u>Use of Proceeds; Margin Regulations</u>. (a) All proceeds of all Loans shall be used for the Borrower's and its Subsidiaries' general corporate purposes, including working capital, capital expenditures, non-hostile acquisitions and other lawful corporate purposes.
 - (b) All Letters of Credit shall be issued for, and the proceeds of all Drawings under all Letters of Credit shall be utilized in connection with the Borrower's and its Subsidiaries' general corporate purposes, including to support drawings under temporary importation bonds.
 - (c) Neither the Borrower nor any of the Restricted Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock. No part of any Credit Event (or the proceeds thereof) will be used for any purpose which will violate or be inconsistent with the provisions of the Margin Regulations.

8.09 Tax Returns, Payments and Tax Treatment. The Borrower and each of its Restricted Subsidiaries have timely filed with the appropriate taxing authority all material returns, statements, forms and reports for taxes or an extension therefor (the "Returns") required to be filed by, or with respect to the income, properties or operations of, the Borrower and/or any of its Restricted Subsidiaries. The Returns accurately reflect in all material respects all liability for taxes of the Borrower and its Restricted Subsidiaries as a whole for the periods covered thereby. Each of the Borrower and each of its Restricted Subsidiaries have paid all taxes and assessments payable by it, other than those (i) that are being contested in good faith and adequately disclosed and fully provided for on the financial statements of the Borrower and its consolidated Subsidiaries in accordance with GAAP or (ii) the failure of which to pay could not reasonably be expected to have a Material Adverse Effect. There is no action, suit, proceeding, investigation, audit or claim now pending or, to the best knowledge of the Borrower or any of its Restricted Subsidiaries, threatened by any authority regarding any taxes relating to the Borrower or any of its Restricted Subsidiaries that would have, or would reasonably be expected to have, a Material Adverse Effect. The Borrower is treated as a corporation for U.S. federal income tax purposes. No payment by or on account of any obligation of any Credit Party under any Credit Document shall be treated as income from sources within the United States for U.S. federal income tax purposes by reason of Section 884(f) of the Code or the Treasury regulations promulgated thereunder, other than any payment identified as U.S. source in a written notice provided to the Administrative Agent by the applicable Credit Party at least 35 days prior to the date such payment is made.

8.10 Compliance with ERISA. (a) Schedule 8.10 sets forth, as of the Effective Date, the name of each Plan. Neither the Borrower nor any Subsidiary of the Borrower nor any ERISA Affiliate has ever sponsored, maintained, made any contributions to or has any liability in respect of any Plan which is subject to Title IV of ERISA or Section 302, 303 or 304 of ERISA or Section 412, 430 or 436 of the Code; each Plan has been maintained and operated in compliance in all materials respects with the provisions of ERISA and, to the extent applicable, the Code, including but not limited to the provisions thereunder respecting prohibited transactions except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. No action, suit, proceeding, hearing, audit or investigation with respect to the administration, operation or the investment of assets of any Plan (other than routine claims for benefits) is pending, expected or threatened except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. Except as would not result in a Material Adverse Effect, each group health plan (as defined in Section 607(1) of ERISA or Section 4980B(g)(2) of the Code) which covers or has covered employees or former employees of the Borrower, any Subsidiary of the Borrower, or any ERISA Affiliate has at all times been operated in compliance with the provisions of Part 6 of subtitle B of Title I of ERISA and

Section 4980B of the Code. Under each employee welfare benefit plan within the meaning of Section 3(1) or Section 3(2)(B) of ERISA covering employees of the Borrower or any Subsidiary of the Borrower, no benefits are due thereunder unless the event giving rise to the benefit entitlement occurs prior to termination of employment (except as required by Title I, Subtitle B, Part 6 of ERISA) except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. The Borrower and each of its Subsidiaries and each ERISA Affiliate may cease contributions to any employee benefit plan maintained by any of them without incurring any material liability and may terminate any employee benefit plan maintained by any of them without incurring any liability that could reasonably be expected to result in a Material Adverse Effect.

(b) Each Foreign Pension Plan has been maintained in substantial compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. All contributions required to be made with respect to a Foreign Pension Plan have been timely made except for any noncompliance which would not reasonably be expected to result in a Material Adverse Effect. Neither the Borrower nor any of its Subsidiaries have incurred any obligation in connection with the termination of, or withdrawal from, any Foreign Pension Plan, except that which would not reasonably be expected to result in a Material Adverse Effect. The present value of the accrued benefit liabilities (whether or not vested) under each Foreign Pension Plan, determined as of the end of the Borrower's most recently ended fiscal year on the basis of then current actuarial assumptions, each of which is reasonable, did not (i) materially exceed the current value of the assets of such Foreign Pension Plan (other than a severance plan or similar arrangement providing for payments on termination of employment) allocable to such benefit liabilities, or (ii) exceed the current value of the assets of a Foreign Pension Plan that is a severance plan or similar arrangement providing for payments on termination of employment, except that would not reasonably be expected to result in a Material Adverse Effect.

- 8.11 The Security Documents . (a) The U.S. Security Agreement is effective to create in favor of the Pari Passu Collateral Agent for the benefit of the Securidy Creditors, legal, valid and enforceable Liens on, and security interests in, the Security Agreement Collateral, in each case, subject to the terms of the Intercreditor Agreement, and, when (i) financing statements are filed in the offices specified on Schedule 8.11 and (ii) upon the taking of possession or control by the Pari Passu Collateral Agent of the Security Agreement Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Pari Passu Collateral Agent, to the extent possession or control by the Pari Passu Collateral Agent is required by the U.S. Security Agreement), the Liens created by the U.S. Security Agreement shall constitute fully perfected Liens on, and security interests in, all right, title and interest of the grantors in the Security Agreement Collateral (other than such Security Agreement Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction by the filing of a financing statement or by possession or control by the Pari Passu Collateral Agent), in each case subject to no Liens other than Permitted Liens.
 - (b) Each of the Collateral Rig Mortgages is in proper legal form under the laws of the relevant flag state for the enforcement thereof under such laws, subject only to such matters which may affect enforceability arising under the laws of the State of New York or with respect to Collateral Rigs registered in the Republic of Liberia, under the laws of the Republic of Liberia, and such other matters that do not substantially interfere with the practical realization of the principal benefits expressed in the Collateral Rig Mortgages, except for the economic consequences of any procedural delay that might result from such matters. To ensure the legality, validity, enforceability or admissibility in evidence of each such Collateral Rig Mortgage or other Credit Document in the relevant flag state it is not necessary that any such Collateral Rig Mortgage or other Credit Document or any other document be filed or recorded with any court or other authority in such relevant flag state, except as have been made or provided to the Pari Passu Collateral Agent or will be made or provided to the Pari Passu Collateral Agent, in accordance with this Agreement, such Collateral Rig Mortgage or the Intercreditor Agreement. Each Collateral Rig Mortgage executed and delivered creates in favor of the Pari Passu Collateral Agent for the benefit of the Secured Creditors a legal, valid, and enforceable first preferred mortgage lien over the Collateral Rig or Collateral Rigs covered thereby and when duly recorded in accordance with the laws of the Collateral Rig's registry, will constitute a "preferred mortgage" within the meaning of Section 31301(6) of Title 46 of the United States Code, entitled to the benefits accorded a preferred mortgage on a foreign vessel, in the case of Collateral Rigs not registered under the laws and flag of the United States, and in the case of Collateral Rigs registered under the laws and flag of the United States, constitutes a "preferred mortgage" within the meaning of Section 31301(6) of Title 46 of the United States Code, entitled to the benefits accorded a preferred mortgage on a registered vessel under the laws and flag of the United States.
 - (c) Each other Security Document delivered on the Effective Date or pursuant to Sections 9.09 and 9.11 will, upon execution and delivery thereof, be effective to create in favor of the Pari Passu Collateral Agent for the benefit of the Secured Creditors, legal, valid and enforceable Liens on, and security interests in, all of the Credit Parties' right, title and interest in and to the Collateral thereunder, and (i) when all appropriate filings or recordings

are made in the appropriate offices as may be required under applicable law and (ii) upon the taking of possession or control by the Pari Passu Collateral Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Pari Passu Collateral Agent, to the extent required by any Security Document), such Security Document will constitute fully perfected Liens on, and security interests in, all right, title and interest of the Credit Parties in such Collateral (other than such Collateral in which a security interest cannot be perfected under the UCC as in effect at the relevant time in the relevant jurisdiction by the filing of a financing statement or by possession or control by the Pari Passu Collateral Agent), in each case subject to no Liens other than the applicable Permitted Liens.

- 8.12 <u>Capitalization</u>. As of the Effective Date, all of the Capital Stock of each Credit Party (other than the Borrower) is legally and beneficially owned as set forth on <u>Schedule 8.12</u>. Except as set forth on <u>Schedule 8.12</u>, all such outstanding equity interests have been duly and validly issued, are fully paid and non-assessable and have been issued free of preemptive rights.
- 8.13 <u>Subsidiaries</u>. On the Effective Date, the Borrower has no Subsidiaries other than those Subsidiaries listed on <u>Schedule 8.13</u> (which Schedule identifies the correct legal name, direct owner, percentage ownership and jurisdiction of organization of each such Subsidiary on the Effective Date).
- 8.14 <u>Compliance with Statutes</u>, etc. Each of the Borrower and each of its Restricted Subsidiaries is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental bodies, domestic or foreign, in respect of the conduct of its business and the ownership of its property (including applicable statutes, regulations, orders and restrictions relating to environmental standards and controls), except such noncompliance as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- 8.15 <u>Investment Company Act</u>. Neither the Borrower nor any of its Restricted Subsidiaries is an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended.
- 8.16 <u>Legal Names; Type of Organization (and Whether a Registered Organization); Jurisdiction of Organization; etc. Schedule 8.16</u> sets forth, as of the Effective Date, the legal name of the Borrower and each Subsidiary Guarantor, the type of organization of the Borrower and each Subsidiary Guarantor that is a Domestic Subsidiary is a registered organization, the jurisdiction of organization of the Borrower and each Subsidiary Guarantor and the organizational identification number (if any) of the Borrower and each Subsidiary Guarantor that is a Domestic Subsidiary.
- 8.17 Environmental Matters . (a) Each of the Borrower and its Restricted Subsidiaries is in compliance with all Environmental Laws and the requirements of any permits issued under such Environmental Laws except for such failures to comply that would not reasonably be expected to have a Material Adverse Effect. There are no pending or, to the knowledge of the Borrower, threatened Environmental Claims that would reasonably be

expected to have a Material Adverse Effect against the Borrower or any of its Restricted Subsidiaries or any Rig, Real Property or other facility owned, leased or operated by the Borrower or any of its Restricted Subsidiaries (including any such claim to the extent known by the Borrower to exist and arising out of the ownership, lease or operation by the Borrower or any of its Restricted Subsidiaries of any Rig, Real Property or other facility formerly owned, leased or operated by the Borrower or any of its Restricted Subsidiaries but no longer owned, leased or operated by the Borrower or any of its Restricted Subsidiaries). All material licenses, permits, registrations or approvals required for the business of the Borrower and each of its Restricted Subsidiaries as currently conducted under any Environmental Law have been applied for or secured and the Borrower and each of its Restricted Subsidiaries is in compliance therewith except such noncompliance as would not reasonably be expected to have a Material Adverse Effect. There are no facts, circumstances, conditions or occurrences in respect of the business or operations of the Borrower or any of its Restricted Subsidiaries as currently conducted or planned (or, to the knowledge of the Borrower, any of the Borrower's or any of its Restricted Subsidiaries' respective predecessors) or any Rig, Real Property or other facility currently owned or operated by the Borrower or any of its Restricted Subsidiaries (or, to the knowledge of the Borrower, any of the Borrower's or any of its Restricted Subsidiaries' formerly owned or operated Rig, Real Property or other facility) that are reasonably likely (i) to form the basis of an Environmental Claim against the Borrower or any of its Restricted Subsidiaries with respect to the Borrower, any Restricted Subsidiary or any Rig, Real Property or other facility owned or operated by the Borrower or any of its Restricted Subsidiaries, or (ii) to cause such Rig, Real Property or other facility owned or operated by the Borrower or any of its Restricted Subsidiaries to be subject to any restrictions on its ownership, occupancy, use or transferability under any Environmental Law, except for, with respect to (i) such Environmental Claims, or, with respect to clause (ii), such restrictions that would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

- (b) Hazardous Materials have at all times been generated, used, treated or stored on, or transported to or from, or Released on or from, any Rig, Real Property or other facility owned, leased or operated by the Borrower or any of its Restricted Subsidiaries in a manner so as not to result in liability under Environmental Laws applicable to the country in which each Rig operates against Borrower or any of its Restricted Subsidiaries (x) during the time of such current ownership, lease or operation by the Borrower or any of its Restricted Subsidiaries or, (y) to the knowledge of the Borrower prior or subsequent to the time of such ownership, lease or operation by the Borrower or any of its Restricted Subsidiaries but only to the extent any such liability is imposed against the Borrower or any of its Restricted Subsidiaries, except, in the case of both (x) and (y) above, where such liability, either individually or in the aggregate, would not reasonably be likely to have a Material Adverse Effect. To the knowledge of the Borrower, Hazardous Materials have not at any time been generated, used, treated or stored on, or transported to or from, or Released on or from, any property adjoining or adjacent to any Real property or other facility of Borrower or any of its Restricted Subsidiaries, where such generation, use, treatment, storage, transportation or Release has violated or could be reasonably expected to violate any applicable Environmental law or give rise to an Environmental Claim except for such noncompliance as would not reasonably be expected to have a Material Adverse Effect.
- (c) All of the Rigs comply with all Environmental Laws except such noncompliance as would not reasonably be expected to have a Material Adverse Effect. The Borrower and its Restricted Subsidiaries have made all required payments to statutory environmental insurance schemes required under Environmental Law and other environmental insurance schemes applicable to the Borrower and its Restricted Subsidiaries except such failure to make payments as would not reasonably be expected to have a Material Adverse Effect.

- 8.18 No Default. Neither the Borrower nor any of its Restricted Subsidiaries is in default under or with respect to any indenture, mortgage, deed of trust, credit agreement or loan agreement, or any other agreement, contract or instrument, in each case to which the Borrower or such Restricted Subsidiary is a party or by which it or any of its property or assets is bound or to which it may be subject, except for such defaults as would not reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing.
- 8.19 <u>Patents, Licenses, Franchises and Formulas</u>. Each of the Borrower and each of its Restricted Subsidiaries owns, or has the right to use, all material patents, trademarks, trade secrets, service marks, trade names, copyrights, licenses, franchises and formulas, and has obtained assignments of all leases and other rights of whatever nature, necessary for the present conduct of its business, without any known conflict with the rights of others, except for such failures and conflicts which would not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.
- 8.20 <u>Anti-Corruption Laws</u>. The Borrower and its Restricted Subsidiaries have observed and are in compliance with all applicable laws and regulations relating to bribery and corrupt practices, including the FCPA.
- 8.21 <u>Insurance</u>. <u>Schedule 8.21</u> sets forth a list of all insurance maintained by each Credit Party as of the Effective Date, with the amounts insured (and any deductibles) set forth therein (the "<u>Required Insurance</u>").
- 8.22 <u>Collateral Rigs</u>. (a) The name, registered owner and official number, and jurisdiction of registration and flag of each Collateral Rig are set forth on <u>Schedule 8.22</u>. Each Collateral Rig is operated in all material respects in compliance with all applicable law, rules and regulations (applicable to each Collateral Rig in accordance with Section 8.22(c) and as required by the applicable Classification Society). Each Collateral Rig is covered by all such insurance as is required in accordance with the requirements of the respective Collateral Rig Mortgage and Section 9.03.
 - (b) Each Credit Party which owns or operates or which will own or operate one or more Collateral Rigs is qualified to own and operate such Collateral Rig under the laws of its jurisdiction of incorporation and its relevant flag state.
 - (c) Each Collateral Rig has its Classification, free of any requirement or recommendation, other than as permitted under the Collateral Rig Mortgage related thereto.
- 8.23 <u>Properties</u>. The Borrower and each of its Restricted Subsidiaries have good and marketable title to (i) all property reflected in <u>Schedule 8.22</u> and (ii) except where a

failure to have good and marketable title would not reasonably be expected to have a Material Adverse Effect, all other properties owned by them, including all property reflected in the balance sheets referred to in Section 8.05(a) (except as sold or otherwise disposed of since the date of such balance sheet in the ordinary course of business or as permitted by the terms of this Agreement). The Collateral is free and clear of all Liens other than Permitted Liens.

- 8.24 <u>Anti-Terrorism</u>. The Borrower and its Restricted Subsidiaries are in compliance in all material respects with United States laws relating to terrorism or money laundering ("<u>Anti-Terrorism Laws</u>"), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the "<u>Executive Order</u>"), and the PATRIOT Act.
 - (a) Neither the Borrower nor any of its Restricted Subsidiaries acting or benefiting in any capacity in connection with the Loans is any of the following:
 - (i) a Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;
 - (ii) a Person or entity that is majority-owned or controlled by, or acting for or on behalf of, any Person or entity that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;
 - (iii) a Person or entity with which a Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;
 - (iv) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order;
 - (v) a Person or entity that is included on the Specially Designated Nationals and Blocked Persons List maintained by the Treasury Department's Office of Foreign Assets Control ("OFAC") or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list (collectively, the "OFAC Lists");
 - (vi) is, nor are any of their respective directors, officers, agents, employees or Affiliates, subject to any U.S. sanction administered by OFAC.
 - (b) Neither the Borrower nor, to its knowledge, any of its Restricted Subsidiaries acting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Person described in subsection (a)(ii) above, (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any United States Anti-Terrorism Law.
- 8.25 Form of Documentation . Each of the Credit Documents is or, when executed, will be in proper legal form under the laws of the jurisdiction which governs such

documents for the enforcement thereof under such laws, as applicable, subject only to such matters which may affect enforceability arising under the law of the State of New York. To ensure the legality, validity, enforceability or admissibility in evidence of each such Credit Document under the laws of the jurisdiction which governs such document, it is not necessary that any Credit Document or any other document be filed or recorded with any court or other authority in such applicable permitted jurisdiction, except as have been made, or will be made, in accordance with the definition of "Collateral and Guaranty Requirements".

- 8.26 <u>Place of Business</u>. None of the Credit Parties has a place of business in any jurisdiction which requires any of the Security Documents to be filed or registered in that jurisdiction to ensure the validity of the Security Documents to which it is a party unless all such filings and registrations have been made or will be made, in accordance with the definition of "Collateral and Guaranty Requirements".
- 8.27 <u>No Immunity</u>. Neither the Borrower, nor any of its Restricted Subsidiaries is a sovereign entity or has immunity on the grounds of sovereignty or otherwise from setoff or any legal process under the laws of any jurisdiction. The execution and delivery of the Credit Documents by the Credit Parties and the performance by them of their respective obligations thereunder constitute commercial transactions.
- 8.28 <u>Pari Passu Ranking</u>. Each Credit Party's payment obligations under the Credit Documents rank at least pari passu with the claims of all its unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.
- SECTION 9. <u>Affirmative Covenants</u>. The Borrower hereby covenants and agrees that from and after the Effective Date and until the Total Commitment has been terminated and no Letters of Credit or Notes are outstanding and all Loans, together with interest, Fees and all other Obligations (other than indemnities described in Section 13.13 which are not then due and payable) incurred hereunder and thereunder, are paid in full:
 - 9.01 <u>Information Covenants</u>. The Borrower will furnish to the Administrative Agent, with sufficient copies for each of the Lenders:
 - (a) Quarterly Financial Statements. Within 75 days after the close of the first three quarterly accounting periods in each fiscal year of the Borrower, (i) the consolidated unaudited balance sheet of the Borrower and its Subsidiaries as at the end of such quarterly accounting period and the related unaudited consolidated statements of operations, comprehensive income (loss), shareholders' equity and cash flows for such quarterly accounting period and for the elapsed portion of the fiscal year ended with the last day of such quarterly accounting period, in each case setting forth comparative figures for the corresponding quarterly accounting period in the prior fiscal year and comparable budgeted figures for such quarterly accounting period as set forth in the respective budget delivered pursuant to Section 9.01(e), all of which shall be certified by an Authorized Representative of the Borrower that they fairly present in all material respects in accordance with GAAP the financial condition of the Borrower and its Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes, and (ii) management's discussion and analysis of the important operational and financial developments during such quarterly accounting period.

- (b) Annual Financial Statements. Within 120 days after the close of each fiscal year of the Borrower, (A) the consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year and the related consolidated statements of operations, comprehensive income (loss), shareholders' equity and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year and certified by independent certified public accountants of recognized national standing reasonably acceptable to the Administrative Agent, together with a report of such accounting firm stating that in the course of its regular audit of the financial statements of the Borrower and its Subsidiaries, which audit was conducted in accordance with generally accepted auditing standards, such accounting firm obtained no knowledge of any Default or Event of Default relating to financial or accounting matters, which has occurred and is continuing or, if in the opinion of such accounting firm such a Default or Event of Default has occurred and is continuing, a statement as to the nature and period of existence thereof (it being understood that such accounting firm shall not be liable directly or indirectly to any Person for any failure to obtain knowledge of any such violations), and (B) management's discussion and analysis of the important operational and financial developments during such fiscal year.
- (c) <u>Appraisal Reports</u>. On or before December 31 of each fiscal year (beginning with the fiscal year ending December 31, 2013), and, upon a Default or Event of Default and during the continuance thereof, within 30 days after the written request of the Administrative Agent, appraisal reports of recent date in form and scope reasonably acceptable to the Administrative Agent, and from two Approved Appraisers, stating the then current fair market value (and each current fair market value used in such determination) of each of the Collateral Rigs on an individual charter-free basis. All such appraisals shall be arranged by, and made at the expense of, the Borrower.
- (d) <u>Management Letters</u>. Promptly after the Borrower or any of its Subsidiaries' receipt thereof, a copy of any material "management letter" received from its certified public accountants and management's response thereto.
- (e) <u>Budgets</u>. No later than 60 days following the first day of each fiscal year of the Borrower (beginning with the Borrower's fiscal year commencing on January 1, 2014), a budget for capital expenditures for the Borrower and its Subsidiaries on a consolidated basis) (i) for each of the four quarters of such fiscal year prepared in detail and (ii) for the three immediately succeeding fiscal years prepared in summary form, in each case setting forth, with appropriate discussion, the principal assumptions upon which such budget is based.
- (f) Officer's Certificates. At the time of the delivery of the financial statements provided for in Sections 9.01(a) and (b), a compliance certificate from an Authorized Representative of the Borrower in the form of Exhibit O certifying on behalf of the Borrower that, to the best of such Authorized Representative's knowledge after due inquiry, no Default or Event of Default has occurred and is continuing or, if any Default or Event of Default has occurred and is continuing, specifying the nature and extent thereof,

which certificate shall (i) set forth in reasonable detail the calculations required to establish whether the Borrower and its Subsidiaries were in compliance with the provisions of Sections 10.07 and 10.08, at the end of such fiscal quarter or year, as the case may be, and (ii) certify that there have been no changes to any of <u>Schedule 8.16</u> or any equivalent annexes or schedules to any other Security Document, in each case since the Effective Date or, if later, since the date of the most recent certificate delivered pursuant to this Section 9.01(f), or if there have been any such changes, a list in reasonable detail of such changes (but, in each case with respect to this clause (ii), only to the extent that such changes are required to be reported to the Pari Passu Collateral Agent pursuant to the terms of such Security Documents) and whether the Borrower and the other Credit Parties have otherwise taken all actions required to be taken by them pursuant to such Security Documents in connection with any such changes.

- (g) Notice of Default, Litigation, Event of Loss or Certain Events related to the Collateral Rigs. Promptly, and in any event within three Business Days after the Borrower or any of its Subsidiaries obtains knowledge thereof, notice of (i) the occurrence of any event which constitutes a Default or an Event of Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto, (ii) any litigation or governmental investigation or proceeding pending or threatened (x) against the Borrower or any of its Subsidiaries which, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or (y) with respect to the Transaction or any Credit Document, (iii) any Event of Loss in respect of any Collateral Rig or any other casualty to a Collateral Rig in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$50,000,000 or the Dollar Equivalent Amount thereof, (iv) any requirement or recommendation made by its Classification Society or by any competent authority in respect of any Collateral Rig which has not been complied with by the date by which it is required to be complied with (as extended by agreement with the Classification Society) other than any such requirement or recommendation the imposition of which is being contested in good faith by the Borrower, (v) any arrest or detention of a Collateral Rig or the exercise or purported exercise of any lien on a Collateral Vessel, (vi) a Collateral Rig ceasing to be registered under the laws of its flag state or anything which is done or omitted to be done whereby such registration is reasonably likely to be imperiled, or (vii) any other event, change or circumstance that has had, or would reasonably be expected to have, a Material Adverse Effect.
- (h) <u>Fleet Status Reports</u>. At the time of the delivery of the financial statements provided for in Sections 9.01(a) and (b), a fleet status report for the Collateral Rigs in substantially the same form as the fleet status reports periodically posted by the Borrower on its website prior to the Effective Date; <u>provided</u> that any fleet status report posted on the Borrower's website within 90 days prior to the time of the delivery of the financial statements provided for in Sections 9.01(a) and (b) shall satisfy the requirements of this Section 9.01(h).
- (i) Other Reports and Filings. All financial information, financial statements, proxy materials, proxy statements, and other notices, information and reports, if any, which the Borrower or any of its Subsidiaries shall file with or furnish to the SEC shall be deemed delivered to the Administrative Agent.

- (j) <u>Environmental Matters</u>. Promptly upon, and in any event within five Business Days after, the Borrower or any of its Subsidiaries obtains knowledge thereof, written notice of any of the following environmental matters occurring after the Effective Date, except to the extent that such environmental matters would not, either individually or when aggregated with all other such environmental matters, reasonably be expected to have a Material Adverse Effect:
 - (i) any Environmental Claim pending or threatened in writing against the Borrower or any of its Subsidiaries or any Rig, Real Property or other facility which is owned or leased by the Borrower or any of its Subsidiaries or upon which the Borrower or any of its Subsidiaries operate;
 - (ii) any condition or occurrence on or arising from any Rig which is owned or leased by the Borrower or any of its Subsidiaries or upon which the Borrower or any of its Subsidiaries operate, that (a) results in noncompliance by the Borrower or such Subsidiary with any Environmental Law or (b) would reasonably be expected to form the basis of an Environmental Claim against the Borrower or any of its Subsidiaries or any such Rig, Real Property or other facility;
 - (iii) any condition or occurrence on any Rig, Real Property or other facility owned or leased or upon which operations are conducted by the Borrower or any of its Subsidiaries that would reasonably be expected to cause such Rig, Real Property or other facility to be subject to any restrictions on the ownership, occupancy, leasing, operation or transferability by the Borrower or such Subsidiary of or upon such Rig, Real Property or other facility under any Environmental Law; and
 - (iv) the taking of any removal or remedial action in response to the actual or alleged presence or Release of any Hazardous Material at, on, under or from any Rig, Real Property or other facility which is owned or leased or upon which operations are conducted by the Borrower or any of its Subsidiaries as required by any Environmental Law or any Governmental Authority; provided that in any event the Borrower shall deliver to the Administrative Agent, within five Business Days of receipt, all notices received by the Borrower or any of its Subsidiaries from any Governmental Authority or other Person which expressly notify the Borrower or any of its Subsidiaries of potential liability under CERCLA, OPA or other Environmental Laws, and which such liability, with respect to the Borrower or Subsidiary, individually or when aggregated, are reasonably expected to have a Material Adverse Effect.

All such written notices to the Administrative Agent shall describe in reasonable detail to the extent known to Borrower the nature of the claim, investigation, condition, occurrence or removal or remedial action and the Borrower's or such Subsidiary's response thereto. In addition, the Borrower will provide the Administrative Agent with copies of all material communications with and reports issued to any Governmental Authority and all material communications with any other Person relating to any Environmental Claim of which notice is required to be given pursuant to this Section 9.01(j), and such reports of any such Environmental Claim as may reasonably be requested by the Administrative Agent or the Required Lenders.

- (k) <u>Surveys.</u> The Borrower shall, or shall cause the Collateral Vessel-Owning Subsidiaries to, submit the Collateral Rigs to such periodical or other surveys as may be required for classification purposes and, if so required by the Administrative Agent, the Borrower, or shall cause the Collateral Vessel-Owning Subsidiaries to, shall supply to the Administrative Agent copies of all survey reports in respect thereof.
- (l) Other Information. The Borrower shall deliver such other information or documents (financial or otherwise) regarding the financial condition, business and operations of the Borrower or any of its Restricted Subsidiaries, including regarding a Collateral Rig, its employment, position and engagements, particulars of all towages and salvages and copies of all charters and other contracts for its employment or otherwise concerning the Collateral Rig (other than any Drilling Contract), as the Administrative Agent on its own behalf or on behalf of the Required Lenders may reasonably request from time to time.
- 9.02 Books, Records and Inspections. (a) The Borrower will, and will cause each of its Restricted Subsidiaries to, keep proper books of record and account in which full, true and correct entries, in conformity in all material respects with GAAP and all requirements of law, shall be made of all dealings and transactions in relation to its business. The Borrower will, and will cause each of its Restricted Subsidiaries to, permit officers and designated representatives of the Administrative Agent and the Lenders as a group to visit and inspect, under guidance of officers of the Borrower or any of its Restricted Subsidiaries, any of the properties of the Borrower or its Restricted Subsidiaries, and to examine the Drilling Contracts and the books of account of the Borrower or such Restricted Subsidiaries and discuss the affairs, finances and accounts of the Borrower or such Restricted Subsidiaries with, and be advised as to the same by, its and their officers and independent accountants (provided that representatives of the Borrower shall be party to any such discussions with such independent accountants), all upon reasonable advance notice and at such reasonable times and intervals and to such reasonable extent as the Administrative Agent or such Lender may request. For the avoidance of doubt, unless (i) an Event of Default shall have occurred and be continuing or (ii) due to an action or omission of the Borrower or its Restricted Subsidiaries, the Administrative Agent or any Lender shall have determined that a visitation or inspection is necessary in order to protect the interests of the Lender Creditors and shall have provided written notice to Borrower specifying the reasons for such determination, the costs and expenses of the Administrative Agent and the Lenders for such visits and inspections shall be for the account of the Lender or Lenders requesting such visits and inspections. Notwithstanding anything in the foregoing to the contrary, visits and inspections of Rigs shall be limited to Collateral Rigs.
 - (b) At a date to be mutually agreed upon between the Administrative Agent and the Borrower occurring on or prior to the 120 th day after the close of each fiscal year of the Borrower, the Borrower will, at the request of the Administrative Agent, hold a meeting with all of the Lenders at which meeting will be reviewed the financial results of the Borrower and its Subsidiaries for the previous fiscal year and the budgets presented for the current fiscal year of the Borrower.

- 9.03 Maintenance of Property; Insurance. (a) The Borrower will, and will cause each of its Restricted Subsidiaries to, (i) keep all material property necessary to the business of the Borrower and its Restricted Subsidiaries in good working order and condition (ordinary wear and tear and loss or damage by casualty or condemnation excepted) with such exceptions as would not reasonably be expected to have a Material Adverse Effect, (ii) maintain with financially sound and reputable insurance companies insurance on the Collateral Rigs and other properties of the Borrower and its Restricted Subsidiaries, with respect to the Collateral Rigs, the Required Insurance, and with respect to all other properties, in at least such amounts and against all such risks as is consistent and in accordance with normal industry practice for similarly situated insureds and (iii) furnish to the Administrative Agent, at the written request of the Administrative Agent or any Lender, a complete description of the material terms of insurance carried on the Collateral Rigs.
 - (b) The Borrower will, and will cause each of the Collateral Vessel-Owning Subsidiaries to, at all times keep the Collateral Rigs insured in favor of the Pari Passu Collateral Agent, and all policies or certificates (or certified copies thereof) with respect to such insurance (i) shall be endorsed to the Pari Passu Collateral Agent's satisfaction for the benefit of the Pari Passu Collateral Agent (including, without limitation, by naming the Pari Passu Collateral Agent as loss payee and/or additional insured, as its interests may appear), (ii) shall state that such insurance policies shall not be canceled without at least 10 days' prior written notice thereof by the respective insurer to the Pari Passu Collateral Agent, and (iii) shall provide that the respective insurers irrevocably waive any and all rights of subrogation with respect to the Pari Passu Collateral Agent and the other Secured Creditors.
 - (c) If the Borrower, or any of the Collateral Vessel-Owning Subsidiaries shall fail to maintain insurance in accordance with this Section 9.03, or if the Borrower, or any of the Collateral Vessel-Owning Subsidiaries shall fail to so endorse and deposit all policies or certificates with respect thereto, the Administrative Agent shall have the right (but shall be under no obligation) to procure such insurance and the Borrower agrees to reimburse the Administrative Agent for all reasonable costs and expenses of procuring such insurance.
- 9.04 Existence; Franchises. The Borrower will, and will cause each of its Restricted Subsidiaries to, do or cause to be done all things necessary to preserve and keep in full force and effect its existence (except to the extent that to do so would result in any Restricted Subsidiary of the Borrower forgoing any right or power which, under applicable law, it may not forgo) and its material rights, franchises, licenses, permits, copyrights, trademarks and patents (if any) used in its business except where such existence or the loss of such rights, franchises, licenses, permits, copyrights, trademarks and patents would not reasonably be expected to have a Material Adverse Effect; provided, however, that nothing in this Section 9.04 shall prevent (i) sales or other dispositions of assets, consolidations, mergers, dissolutions or liquidations by or involving the Borrower or any of its Restricted Subsidiaries which are permitted in accordance with Section 10.02 or (ii) the withdrawal by the Borrower or any of its Restricted Subsidiaries of its qualification as a foreign corporation, partnership or limited liability company, as the case may be, in any jurisdiction if such withdrawal would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

9.05 <u>Compliance with Statutes, etc.</u> The Borrower will, and will cause each of its Restricted Subsidiaries to, comply with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all governmental bodies, domestic or foreign, in respect of the conduct of its business and the ownership of its property (including applicable statutes, regulations, orders and restrictions relating to environmental standards and controls), and all applicable rules and regulations of the American Bureau of Shipping or other Classification Society (in accordance with Section 8.22(c)), except such noncompliances as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. The Borrower will, and will cause each of its Restricted Subsidiaries to, obtain and maintain all applicable certifications of compliance available with respect to the foregoing.

9.06 Compliance with Environmental Laws. (a) The Borrower will, and will cause each of its Restricted Subsidiaries to, comply in all material respects with all Environmental Laws and applicable permits required under Environmental Laws and will pay or cause to be paid all costs and expenses incurred in connection with such compliance (except to the extent such costs or expenses are being contested in good faith), and will keep or cause to be kept the Collateral Rigs free and clear of any Liens imposed pursuant to such Environmental Laws. The Borrower and its Restricted Subsidiaries will generate, use, treat, store, Release or dispose of, and will permit the generation, use, treatment, storage, Release or disposal of, Hazardous Materials at, on or from any Rig, Real Property or other facility now or hereafter which is owned or leased or upon which operations are conducted by the Borrower or any of its Restricted Subsidiaries, and will transport and permit the transportation of Hazardous Materials to or from any Rigs, Real Properties or other facilities in compliance with all Environmental Laws except for such noncompliance as would not reasonably be expected to have a Material Adverse Effect.

(b) At the written request of the Administrative Agent or the Required Lenders, which request shall be reasonable, made in good faith and specify in reasonable detail the basis therefor, the Borrower will provide, at the Borrower's sole cost and expense, an environmental assessment of any Rig by an environmental consultant reasonably acceptable to the Administrative Agent, which shall assess the Rig's compliance with Environmental Law, the Release or threatened Release of Hazardous Materials, and the potential costs of addressing any non-compliance or Release or threatened Release of Hazardous Materials; provided, however, that such request may be made only if and to the extent that (i) there has occurred and is continuing an Event of Default, (ii) circumstances exist that reasonably would be expected to form the basis of an Environmental Claim constituting a Material Adverse Effect against any Credit Party or any Collateral Rig, circumstances exist that reasonably would be expected to form the basis of any Environmental Claim constituting a Material Adverse Effect. If the Borrower fails to provide the environmental assessment as obligated herein within a reasonable time, given the scope, timing and duration of the original and any supplemental requests made, and absent any legal dispute amongst the parties regarding the same, the Administrative Agent may order the same, and the Borrower shall grant and hereby grants to the Administrative Agent and the Lenders an irrevocable non-exclusive license, subject to the rights of tenants, to undertake such reasonable assessment, all at the Borrower's expense.

(c) Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, the Borrower shall at its sole expense: (i) timely obtain or file, and shall cause each Subsidiary to timely obtain or file, all notices, permits, licenses, exemptions, approvals, registrations or other authorizations, if any, required under Environmental Laws to be obtained or filed in connection with the operation or use of the Borrower's or its Restricted Subsidiaries' properties; (ii) promptly commence and diligently prosecute to completion, and shall cause each Restricted Subsidiary to promptly commence and diligently prosecute to completion, any assessment, evaluation, investigation, monitoring, containment, cleanup, removal, repair, restoration, remediation or other remedial obligations (collectively, the "Remedial Work") in the event and to the extent any Remedial Work is required or reasonably necessary under Environmental Laws because of or in connection with the actual or suspected past or present disposal or other Release of any Hazardous Materials on, under or from any of the Borrower's or its Restricted Subsidiaries' Rigs, Real Properties or other facilities for which the Borrower or its Restricted Subsidiaries is required to undertake pursuant to Environmental Law (except to the extent such Remedial Work is being contested in good faith by the Borrower or its Restricted Subsidiaries) or is otherwise liable; and (iii) establish and implement, and shall cause each Restricted Subsidiary to establish and implement, such reasonable procedures as may be necessary to determine and assure that the Borrower's and its Restricted Subsidiaries' obligations under this Section 9.06(c) are timely satisfied.

9.07 ERISA. As soon as possible and, in any event, within ten (10) days after the Borrower, any Subsidiary or any ERISA Affiliate knows or has reason to know of the occurrence of any of the following except to the extent such occurrence would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the Borrower will deliver to each of the Lenders a certificate of an Authorized Representative of the Borrower setting forth the full details as to such occurrence and the action, if any, that the Borrower, such Subsidiary or such ERISA Affiliate is required or proposes to take, together with any notices required or proposed to be given or filed by the Borrower, such Subsidiary, the Plan administrator or such ERISA Affiliate to or with any government agency, or a Plan participant and any notices received by the Borrower, such Subsidiary or ERISA Affiliate from any government agency, or a Plan participant with respect thereto: that any contribution required to be made with respect to a Plan or Foreign Pension Plan has not been timely made; or that the Borrower or any Subsidiary of the Borrower may incur any material liability pursuant to any employee welfare benefit plan (as defined in Section 3(1) of ERISA) that provides benefits to retired employees or other former employees (other than as required by Section 601 of ERISA) or any Plan or any Foreign Pension Plan. Upon request by the Administrative Agent or any Lender, the Borrower will deliver to the Administrative Agent or each such Lender, as the case may be, a complete copy of the annual report (on Internal Revenue Service Form 5500-series) of each Plan (including, to the extent required, the related financial and actuarial statements and opinions and other supporting statements, certifications, schedules and information) required to be filed with the Internal Revenue Service. In addition to any certificates or notices delivered to the Lenders pursuant to the first sentence hereof, copies of any records, documents or other information required to be furnished to any government agency, and any notices received by the

Borrower, any Subsidiary of the Borrower or any ERISA Affiliate with respect to any Plan or Foreign Pension Plan from any government or governmental agency shall be delivered to the Administrative Agent no later than twenty (20) days after the date such records, documents and/or information have been furnished to any government agency or such notice has been received by the Borrower, the Subsidiary or the ERISA Affiliate, as applicable, to the extent such records, documents other information or notices relate to matters that could, either individually or in the aggregate, reasonably be expected to result in the imposition of material liability on the Borrower, Subsidiary or an ERISA Affiliate. The Borrower and each of its applicable Subsidiaries shall ensure that all Foreign Pension Plans administered by it obtains or retains (as applicable) registered status under and as required by applicable law and is administered in a timely manner in all respects in compliance with all applicable laws except where the failure to do any of the foregoing would not be reasonably likely to result in a Material Adverse Effect.

- 9.08 Payment of Taxes. The Borrower will pay and discharge, and will cause each of its Restricted Subsidiaries to pay and discharge, all taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits, or upon any properties belonging to it, in each case on a timely basis, and all lawful claims which, if unpaid, might become a Lien or charge upon any properties of the Borrower or any of its Restricted Subsidiaries not otherwise permitted under Section 10.01(i) except such noncompliance as would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; provided that neither the Borrower nor any of its Restricted Subsidiaries shall be required to pay any such tax, assessment, charge, levy or claim which is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP.
- 9.09 Additional Security; Additional Guarantors; Further Assurances. (a) The Borrower will, and will cause each of its Restricted Subsidiaries to, at any time and from time to time, (x) at the expense of the Borrower or such Restricted Subsidiary, promptly execute and deliver all further instruments and documents, and take all further action, that may be reasonably necessary, or that the Administrative Agent may reasonably require, to perfect, preserve, protect and maintain any Lien granted or purported to be granted hereby or by the other Credit Documents, or to enable the Pari Passu Collateral Agent to exercise and enforce its rights and remedies with respect to any Collateral and (y) keep on board the Collateral Rig each such document or record as may be required by law and cause such particulars relating to the relevant Collateral Rig Mortgage to be recorded as may be required by law. Without limiting the generality of the foregoing, the Borrower will execute and file, or cause to be filed, such financing or continuation statements under the UCC (or any non-U.S. equivalent thereto), or amendments thereto, such amendments or supplements to any Collateral Rig Mortgage, and such other instruments or notices, as may be reasonably necessary, or that the Administrative Agent may reasonably require, to perfect, preserve, protect and maintain the Liens granted or purported to be granted hereby and by the Credit Documents.
 - (b) The Borrower and the other Credit Parties hereby authorize the Pari Passu Collateral Agent to file one or more financing or continuation statements under the UCC (or any non-U.S. equivalent thereto), and amendments thereto, relative to all or any part of the Collateral without the signature of the Borrower or any other Credit Party, where permitted by law. The Pari Passu Collateral Agent will promptly send the Borrower a copy of any financing or continuation statements which it may file without the signature of the Borrower or any other Credit Party and the filing or recordation information with respect thereto.

- (c) (I) If at any time (w) any Subsidiary of the Borrower becomes a Collateral Vessel-Owning Subsidiary, (x) any Collateral Vessel-Owning Subsidiary forms or acquires any new direct or indirect Restricted Subsidiary that would be required to become a Subsidiary Guarantor in accordance with the definition thereof, (y) any Subsidiary of the Borrower becomes an Equity-Owning Subsidiary or (z) any Subsidiary of the Borrower becomes an Internal Charter (each such new or additional Collateral Vessel-Owning Subsidiary, Equity-Owning Subsidiary, Internal Charterer or Restricted Subsidiary, an "Additional Subsidiary Guarantor"), such Additional Subsidiary Guarantor shall be required to execute and deliver to the Administrative Agent or Pari Passu Collateral Agent, as applicable, a supplement to each of the U.S. Subsidiary Guaranty and (other than in the case of an Equity-Owning Subsidiary) the U.S. Security Agreement, in each case, substantially in the form attached thereto (and/or, in the case of Foreign Subsidiaries of the Borrower, upon the request of the Administrative Agent and based on advice of local counsel, such Foreign Subsidiary Guaranties as would have been entered into by the respective Additional Subsidiary Guarantor if same had been a Subsidiary Guarantor on the Effective Date (determined in accordance with the criteria described in the definition of "Collateral and Guaranty Requirements")), and in each case shall take all actions in connection therewith as would otherwise have been required to be taken pursuant to Section 6 if such Subsidiary had been a Credit Party on the Effective Date, including delivery of legal opinions and, with respect to new or additional Collateral Vessel-Owning Subsidiaries, the execution and delivery of Collateral Rig Mortgages. The Borrower agrees that each action required above by this Section 9.09(c)(I) shall be completed contemporaneously with (or, except with respect to Collateral Rig Mortgages, within 30 days of) such Subsidiary becoming an Additional Subsidiary Guarantor.
- (II) If at any time any Subsidiary of the Borrower becomes an Equity-Owning Subsidiary, such Subsidiary shall be required to execute and deliver to the Pari Passu Collateral Agent, counterparts of or a supplement (substantially in the form attached thereto), as applicable, to the U.S. Pledge Agreement (and/or, in the case of Foreign Subsidiaries of the Borrower, upon the request of the Administrative Agent and based on advice of local counsel, such Foreign Pledge Agreements as would have been entered into by the respective Equity-Owning Subsidiary if same had been an Equity-Owning Subsidiary on the Effective Date (determined in accordance with the criteria described in the definition of "Collateral and Guaranty Requirements")) and shall take all actions in connection therewith as would otherwise have been required to be taken pursuant to Section 6 if such Subsidiary had been an Equity-Owning Subsidiary on the Effective Date, including delivery of legal opinions. The Borrower agrees that each action required above by this Section 9.09(c)(II) shall be completed contemporaneously with (or within 30 days of) such Subsidiary becoming an Equity-Owning Subsidiary.
 - (d) The Borrower will promptly, but in any event within five (5) Business Days, notify the Administrative Agent, in writing, of any appointment of or termination of the appointment of, an Approved Manager. Prior to or concurrently with the execution and delivery of any Management Agreement, the Borrower will cause the relevant Collateral Vessel-Owning Subsidiary and Approved Manager to execute and deliver to the

Administrative Agent an Assignment of Management Agreement. Prior to or concurrently with the execution and delivery of any Internal Charter, the Borrower will cause the relevant Collateral Vessel-Owning Subsidiary and Internal Charter to execute and deliver to the Administrative Agent an Assignment of Internal Charter.

- (e) The Borrower will cause each obligor and obligee of any loan, advance or other extension of credit (including, without limitation, pursuant to guarantees thereof or security therefor), in each case, made to a Credit Party by any Subsidiary of the Borrower that is not a Credit Party prior to the extension or incurrence of such loan, advance or other extension of credit, to execute and deliver to the Administrative Agent a supplement to the Intercompany Subordination Agreement substantially in the form attached thereto.
- (f) At the reasonable written request of any counterparty to an Interest Rate Protection Agreement, an Other Hedging Agreement or a Cash Management Agreement entered into after the Effective Date (to the extent permitted under this Agreement to be entered into and secured) by one or more Lenders or any Affiliate thereof (even if, after the entry into such Interest Rate Protection Agreement, Other Hedging Agreement or Cash Management Agreement, the respective Lender subsequently ceases to be a Lender for any reason), with any Credit Party that shall be a party to a Collateral Rig Mortgage and, at the written direction of the Administrative Agent, such Credit Party shall agree with the mortgagee thereunder to an amendment to such Collateral Rig Mortgage that shall result in the obligations under such Interest Rate Protection Agreement, Other Hedging Agreement or Cash Management Agreement becoming additional secured obligations under each Collateral Rig Mortgage (and causing such obligations to be secured on such basis as set forth in this Agreement or in the U.S. Security Agreement), and cause the same to be promptly and duly recorded, and such amendment shall be in form and substance reasonably satisfactory to the Administrative Agent.
- 9.10 <u>Use of Proceeds</u>. The Borrower and its Subsidiaries will use Letters of Credit and the proceeds of the Loans only as provided in Section 8.08.
- 9.11 <u>Collateral Rigs</u>. The Borrower shall, and shall cause each Collateral Vessel-Owning Subsidiary to comply with the following requirements with respect to the Collateral Rigs (<u>provided</u> that during any period when a Collateral Rig is employed on a demise charter, the charterer's performance of corresponding obligations under the relevant demise charter shall discharge the obligations of the Borrower and the applicable Collateral Vessel-Owning Subsidiary):
- (a) maintain the registration of the Collateral Rig under the registry of the Republic of Liberia or another Approved Flag State and shall not do or omit to do anything or suffer any act or omission whereby such registration is reasonably likely to be forfeited or imperiled;
- (b) comply with all legislation of the primary flag state and all other legislation, regulations and requirements of any government, governmental agency or other regulatory authority (statutory or otherwise) from time to time applicable to the Collateral Rig;

- (c) (i) at all times keep the Collateral Rig in good running order and repair, so that the Collateral Rig shall be, insofar as due diligence can make them so, tight, staunch, strong and well and sufficiently tackled, appareled, furnished, equipped and in every respect seaworthy and will keep the Collateral Rig, or cause them to be kept, in such condition as will entitle them to maintain their Classification, free of any requirement or recommendation affecting class which has not been complied with in accordance with its terms and so as to avoid adverse notation and (ii) at all times procure all appropriate repairs to or replacements of any damaged, worn out or lost parts or equipment (both as regards workmanship and quality of materials) so as not to diminish the Classification or materially diminish the value of the Collateral Rig;
- (d) prevent the removal of each part or item of equipment which is legally and beneficially wholly-owned by the applicable Collateral Vessel-Owning Subsidiary the removal of which would materially reduce the value of a Collateral Rig, unless it is replaced promptly by a suitable part or item and the replacement part or item (i) is in the same or better condition than that part or item removed or enhances the value and/or earning capacity of the applicable Collateral Rig; (ii) is (or upon its installation on board the applicable Collateral Rig will become) legally and beneficially wholly owned by the relevant Collateral Vessel-Owning Entity; (iii) is free from Liens, except as permitted by Section 10.01; and (iv) with effect from its installation on board a Collateral Rig, is subject to the security interest created by the relevant Collateral Rig Mortgage;
- (e) pay all tolls, dues and other material outgoings whatsoever in respect of the Collateral Rig and the Insurance Collateral and keep accounts in respect thereof in accordance with their current practice, and, as and when the Administrative Agent may so reasonably require, the Borrower and the Collateral Vessel-Owning Subsidiaries shall make such accounts available for inspection on behalf of the Administrative Agent and shall provide evidence reasonably satisfactory to the Administrative Agent that the wages and allotments and the insurance and pension contributions of the master and crew are being regularly paid, that all deductions from crew's wages in respect of any tax and/or social security liability are being properly accounted for and that the master has no claim for disbursements other than those incurred in the ordinary course of trading on the voyage (if any) then in progress or completed prior to such inspection;
- (f) maintain the Collateral Rig without modifications thereto and any part thereof which would or might materially and adversely alter the structure, type or performance characteristics of the Collateral Rig or materially reduce their value and without the installation of any equipment belonging to a third party which cannot be removed without causing significant damage to the structure or fabric of the Collateral Rig;
- (g) comply or procure that any other relevant Person will comply, in all material respects, with the ISM Code and the ISPS Code (or any replacement thereof) in relation to the operation of the Collateral Rig;
- (h) appoint only Approved Managers as managers of the Collateral Rig; <u>provided</u> that each Approved Manager so appointed shall execute and deliver to the Administrative Agent a Manager's Subordination Undertaking in relation to the Collateral Rig before it commences management of the Collateral Rig; and

- (i) (i) if a libel, complaint, writ or warrant be filed against a Collateral Rig or a Collateral Rig be otherwise attached, arrested, levied upon or taken into custody under process or color of legal authority for any cause whatsoever, promptly notify the Administrative Agent, and within thirty (30) days (or seven (7) days after a request by the Administrative Agent) cause such Collateral Rig to be released and all Liens thereon other than the applicable Collateral Rig Mortgage and any Permitted Liens to be discharged and will promptly notify the Administrative Agent thereof in the manner aforesaid; and (ii) if the Borrower or the applicable Collateral Vessel-Owning Subsidiary shall fail or neglect to furnish proper security or otherwise to release a Collateral Rig from libel, arrest, levy, seizure or attachment as set forth above, the Pari Passu Collateral Agent or any person acting on behalf of the Pari Passu Collateral Agent may furnish security to release such Collateral Rig and by so doing shall not be deemed to cure the default of the Borrower hereunder.
- 9.12 Earnings Accounts. The Borrower shall, or shall cause the Collateral Vessel-Owning Subsidiaries, other Subsidiary Guarantors or Internal Charterers, as applicable, to, at all times maintain one or more Earnings Account, and such Earnings Account shall at all times be in the name of a Collateral Vessel-Owning Subsidiary, other Subsidiary Guarantor or Internal Charterer. The Borrower and the Collateral Vessel-Owning Subsidiaries will at all times cause all such Earnings from the Drilling Contracts (other than Earnings payable to or for the account of a Local Content Subsidiary; provided that Earnings representing no more than 20% of the Earnings with respect any Collateral Rig may be payable to or for the account of Local Content Subsidiaries) to be deposited into or forwarded to an Earnings Account which shall be held with (i) Citibank, N.A., as account bank or securities intermediary, as applicable (each such Earnings Account, an "Agent Account"), or (ii) the account bank or securities intermediary, as applicable, with which such Earnings Accounts are held on the Effective Date, so long as (a) such accounts are subject to a control agreement reasonably acceptable to, and in favor of, the Pari Passu Collateral Agent and (b) in the case of clause (ii), the owner of such Earnings Account gives notice no later than 10 Business Days after the Effective Date to the applicable counterparty to any applicable Drilling Contracts to make all applicable payments into an Agent Account.
- SECTION 10. <u>Negative Covenants</u>. The Borrower hereby covenants and agrees that from and after the Effective Date and until the Total Commitment has been terminated and no Letters of Credit or Notes are outstanding and all Loans, together with interest, Fees and all other Obligations (other than indemnities described in Section 13.13 which are not then due and payable) incurred hereunder and thereunder, are paid in full:
- 10.01 <u>Liens</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, create, incur, assume or suffer to exist any Lien upon or with respect to any asset of the Borrower or any of its Restricted Subsidiaries, whether now owned or hereafter acquired; <u>provided</u> that the provisions of this Section 10.01 shall not prevent the creation, incurrence, assumption or existence of the following (Liens described below are herein referred to as "Permitted Liens"):
 - (i) inchoate Liens for taxes, assessments or governmental charges or levies not yet due or Liens for taxes, assessments or governmental charges or levies being contested in good faith and by appropriate proceedings for which adequate reserves have been established in accordance with GAAP;

- (ii) Liens imposed by law, such as maritime, suppliers', carriers', warehousemen's, landlords' and mechanics' Liens, in each case, incurred in the ordinary course of business, for amounts (i) not more than 30 days past due or (ii) which are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and for which any reserve or other appropriate provision as required in conformity with GAAP has been made therefor; <u>provided</u> that the continued existence of which does not include a reasonable likelihood of the detention, arrest, sale or forfeiture of a Collateral Vessel;
- (iii) other than with respect to the Collateral, (x) Liens in existence on the Effective Date which are listed, and the property subject thereto described, in <u>Schedule 10.01</u> and (y) any Liens securing renewals, replacements and extensions thereof, in each case, securing Indebtedness permitted by Section 10.04(iii);
 - (iv) Liens created pursuant to the Security Documents;
- (v) Liens securing Indebtedness permitted to be incurred pursuant to Section 10.04(iv); <u>provided</u> that (x) such Liens are at all times subject to the Intercreditor Agreement and (y) such Liens also secure the Secured Obligations;
- (vi) easements, rights-of-way, restrictions, encroachments and other similar charges or encumbrances, and minor title deficiencies, in each case not securing Indebtedness and not materially interfering with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;
- (vii) Liens arising from precautionary UCC financing statement filings regarding operating leases entered into in the ordinary course of business;
- (viii) Liens arising out of the existence of judgments or awards to the extent the existence of such judgments or awards do not result in an Event of Default as set forth in Section 11.09;
- (ix) Liens (other than Liens imposed under ERISA) incurred in the ordinary course of business in connection with, workmen's compensation claims, unemployment insurance, and social security benefits and Liens securing the performance of bids, tenders, leases and contracts in the ordinary course of business, statutory obligations, surety bonds, performance bonds, maritime Liens and other obligations of a like nature incurred in the ordinary course of business and consistent with past practice (exclusive of obligations in respect of the payment for borrowed money), <u>provided that</u>, in the case of any such Liens on assets of any Subsidiary Guarantor, such Liens shall extend solely to cash and/or Cash Equivalents of such Subsidiary Guarantor;
- (x) other than with respect to Collateral, Liens on assets of the Restricted Subsidiaries (including PIDWAL, but not including any other Credit Parties) securing Indebtedness permitted to be incurred pursuant to Section 10.04(viii);

- (xi) other than with respect to Collateral, Liens securing Indebtedness permitted to be incurred pursuant to Section 10.04 (ix);
- (xii) Liens existing on the assets of any Acquired Entity or Business to the extent the Liens on such assets secure Indebtedness permitted by Section 10.04(x); <u>provided</u> that (A) such Liens attach at all times only to the same assets that such Liens (or upon or in after-acquired property that is (i) affixed or incorporated into the property covered by such Lien, (ii) after-acquired property subject to a Lien securing Indebtedness permitted under Section 10.04(x), the terms of which Indebtedness require or include a pledge of after-acquired property (it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition) and (iii) the proceeds and products thereof) attached to, and secure only, the same Indebtedness or obligations that such Liens secured, immediately prior to the acquisition of such Acquired Entity or Person and (B) such Liens were not created in contemplation of the acquisition of such Acquired Entity or Person; and
- (xiii) additional Liens so long as the aggregate principal amount of the obligations secured thereby at the time of the incurrence thereof does not exceed \$10,000,000; <u>provided</u> that, in the case of a Lien on a Collateral Rig, the continued existence of such Lien does not include a reasonable likelihood of the detention, arrest, sale or forfeiture of such Collateral Rig.

In connection with the granting of Liens described in this Section 10.01 by the Borrower or any of its Restricted Subsidiaries, the Administrative Agent and the Pari Passu Collateral Agent shall be authorized to take any actions deemed appropriate by it in connection therewith (including, without limitation, by executing appropriate Lien releases or Lien subordination agreements in favor of the holder or holders of such Liens, in either case solely with respect to the item or items of equipment or other assets subject to such Liens).

- 10.02 <u>Consolidation, Merger, or Sale of Assets, etc.</u> The Borrower will not, and will not permit any of its Restricted Subsidiaries to (x) wind up, liquidate or dissolve its affairs, (y) consummate any Asset Disposition or (z) directly or indirectly, in a single transaction or series of related transactions, merge or consolidate with or into another Person or enter into any similar combination, except that:
 - (i) Investments by the Borrower and its Restricted Subsidiaries shall be permitted in accordance with Section 10.05;
 - (ii) any Restricted Subsidiary of the Borrower may lease (as lessee) or license (as licensee) real or personal property (so long as any such lease or license does not create a Capitalized Lease Obligation except to the extent permitted by Section 10.04(ix));
 - (iii) any Restricted Subsidiary of the Borrower may sell or discount, in each case without recourse and in the ordinary course of business, overdue accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with customary industry practice (and not as part of any bulk sale or financing transaction);

- (iv) any Restricted Subsidiary of the Borrower may merge with and into, or be dissolved or liquidated into, the Borrower or any Restricted Subsidiary, so long as (w) in the case of any such merger, dissolution or liquidation involving the Borrower, the Borrower is the surviving corporation of any such merger, dissolution or liquidation, (x) except as provided in preceding clause (w), in the cases of any such merger, dissolution or liquidation involving a Subsidiary Guarantor, a Subsidiary Guarantor is the surviving entity of any such merger, dissolution or liquidation, and (y) in all cases, the Collateral and Guaranty Requirements shall be fully satisfied after giving effect thereto (to at least the same extent as in effect immediately prior to such merger, dissolution or liquidation);
- (v) the Borrower may merge or consolidate with any other Person so long as the Borrower is the surviving entity, no Default or Event of Default then exists or is continuing at such time, the Borrower shall continue to be organized in Luxembourg, the United States or another jurisdiction acceptable to the Administrative Agent, acting on the instruction of the Required Lenders, there is no Change of Control and the Collateral and Guaranty Requirements shall be satisfied after giving effect thereto:
 - (vi) any Restricted Subsidiary of the Borrower may enter into an Internal Charter with an Internal Charterer; and
- (vii) each of the Borrower and any of its Restricted Subsidiaries may consummate any Asset Disposition (other than a Collateral Disposition); provided that (1) such Asset Disposition is for fair market value, (2) the Net Cash Proceeds of such Asset Disposition are applied pursuant to Section 4.03(b), (3) at least 75% of the consideration received from such Asset Disposition shall be in the form of (a) cash (including the assumption or satisfaction by the purchaser of Indebtedness of the Borrower or its Restricted Subsidiaries), (b) Cash Equivalents (c) securities, notes or other obligations which are, within 180 days after receipt thereof, converted into cash or Cash Equivalents, to the extent of cash or Cash Equivalents received in such conversion and (d) assets used or useful in the business of the Borrower or its Restricted Subsidiaries, (4) after giving effect to such Asset Disposition, the Borrower and its Restricted Subsidiaries shall be in proforma compliance with the financial covenants contained in Sections 10.07 and 10.08 and (5) no more than one Rig may be subject to any such Asset Disposition during the term of this Agreement.

To the extent the Required Lenders waive the provisions of this Section 10.02 with respect to the sale of any Collateral, or any Collateral is sold as permitted by this Section 10.02, such Collateral (unless sold to the Borrower or a Restricted Subsidiary of the Borrower) shall be sold free and clear of the Liens created by the Security Documents, and the Administrative Agent and the Pari Passu Collateral Agent shall be authorized to take any actions deemed appropriate in order to effect the foregoing.

10.03 <u>Dividends</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, authorize, declare or pay any Dividends with respect to the Borrower or any of its Restricted Subsidiaries, except that:

- (i) any Restricted Subsidiary of the Borrower may pay Dividends to the Borrower or to any other Restricted Subsidiary of the Borrower:
- (ii) any non-Wholly-Owned Restricted Subsidiary of the Borrower may pay cash Dividends to its shareholders generally so long as the Borrower or its respective Subsidiary which owns the equity interest in the Subsidiary paying such Dividends receives at least its proportionate share thereof (based upon its relative holding of the equity interest in such Subsidiary paying such Dividends and taking into account the relative preferences, if any, of the various classes of equity interests of such Subsidiary); and
- (iii) so long as (x) no Default or Event of Default exists or would result therefrom and (y) after giving effect to such Dividend, the Borrower will be in <u>pro forma</u> compliance with each of the covenants set forth in Sections 10.07 and 10.08, the Borrower may pay cash Dividends.

10.04 <u>Indebtedness</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, contract, create, incur, assume or suffer to exist any Indebtedness, except:

- (i) Indebtedness incurred or deemed incurred pursuant to this Agreement and the other Credit Documents;
- (ii) Indebtedness under (x) Interest Rate Protection Agreements which are nonspeculative in nature and are entered into with respect to other Indebtedness permitted to remain outstanding or be incurred, as the case may be, pursuant to this Section 10.04 and (y) Indebtedness evidenced by Other Hedging Agreements entered into pursuant to Section 10.05(vi);
- (iii) (A) Indebtedness outstanding on the Effective Date and listed on Schedule 10.04 (the "Existing Indebtedness"), which schedule lists the aggregate principal amount thereof and the name of the borrower of such Indebtedness and any other entity which directly or indirectly guarantees such Indebtedness on the Effective Date) and (B) Indebtedness issued to refinance or replace any such Existing Indebtedness, provided that (I) each obligor on any such refinancing or replacement indebtedness is not a Credit Party (other than the Borrower or PIDWAL) that was not an obligor on the Existing Indebtedness so refinanced or replaced, (II) the principal amount of the Indebtedness issued to refinance or replace such Existing Indebtedness is not increased beyond the sum of (x) the maximum aggregate amount outstanding or available to be drawn (or in the case of a revolving credit facility, from the aggregate amount committed by the respective lenders thereunder) on the Effective Date pursuant to such Indebtedness (including, in the case of the 7.25% Senior Secured Notes issued by Pacific Drilling V Ltd., \$50,000,000 on account of additional notes issued under the same

indenture), <u>plus (y)</u> the amount of reasonable fees and expenses incurred in connection with such refinancing or replacement the amount of reasonable fees and expenses incurred in connection with such refinancing or replacement, (III) such refinancing or replacement Indebtedness has a final maturity date no earlier than six months after the fifth anniversary of the Effective Date, (IV) except as otherwise consented to by the Administrative Agent in its sole discretion, such Indebtedness is on terms and conditions taken as a whole (including, without limitation, terms relating to interest rate, fees, covenants, defaults, amortization and mandatory prepayments) not materially more onerous to the Borrower or any of its Restricted Subsidiaries than the terms and conditions of the Existing Indebtedness being refinanced or replaced (but taking into account any changes to the terms thereof permitted by Section 10.11), (V) such Indebtedness is not secured other than by Liens on (x) the assets of the Borrower or any Restricted Subsidiary of the Borrower which were previously subject to Liens securing the Existing Indebtedness being refinanced or replaced as permitted by Section 10.01(iii), (y) the assets of PIDWAL not constituting Collateral, and (z) the assets of any Restricted Subsidiary that is not a Credit Party and (VI) at the time of, and immediately after giving effect to, the incurrence of such refinancing or replacement Indebtedness, no Default or Event of Default shall be in existence;

(iv) Indebtedness in respect of the Senior Notes and the Senior Term Loans and any Indebtedness issued to refinance or replace the Senior Notes or the Senior Term Loans in an aggregate principal amount not to exceed \$1,700,000,000 at any time outstanding, provided that (I) each obligor on such refinancing or replacement Indebtedness is (x) an obligor on the Indebtedness so refinanced or replaced and (y) an obligor under the Revolving Facility, (II) the principal amount of the Indebtedness issued to refinance or replace the Senior Notes or the Senior Term Loans is not increased beyond the sum of (x) \$1,700,000,000, plus (y) the amount of reasonable fees and expenses incurred in connection with such refinancing or replacement, (III) such refinancing or replacement Indebtedness has a final maturity date no earlier than six months after the fifth anniversary of the Effective Date, (IV) except as otherwise consented to by the Administrative Agent in its sole discretion, such Indebtedness is on terms and conditions taken as a whole (including, without limitation, terms relating to interest rate, fees, covenants, defaults, amortization and mandatory prepayments) not materially more onerous to the Borrower or any of its Restricted Subsidiaries than the terms and conditions of the Indebtedness being refinanced or replaced (but taking into account any changes to the terms thereof permitted by Section 10.11), (V) such Indebtedness is not secured other than by (x) Liens on the assets of the Borrower or any Restricted Subsidiary of the Borrower which were previously subject to Liens securing such Indebtedness being refinanced or replaced as permitted by Section 10.01(v) or (y) Liens on the assets of the Borrower or any Restricted Subsidiary of the Borrower as permitted by Section 10.01(v), and (VI) at the time of, and immediately after giving effect to, the incurrence of such refinancing or replacement Indebtedness, no Default or Event of Default shall be in existence:

(v) intercompany Indebtedness to the extent permitted by Sections 10.05(iii) or (vii);

- (vi) [Intentionally Omitted];
- (vii) so long as no Default or Event of Default then exists or would result therefrom, additional Indebtedness of the Borrower, its Restricted Subsidiaries that are not Credit Parties and PIDWAL, <u>provided</u> that both before and after giving effect to such additional Indebtedness, the Borrower and its Restricted Subsidiaries shall be in <u>proforma</u> compliance with the financial covenants contained in Sections 10.07 and 10.08, which Indebtedness shall be unsecured unless otherwise permitted under Section 10.01;
- (viii) Indebtedness of the Borrower, its Restricted Subsidiaries that are not Credit Parties and PIDWAL so long as at the time of the incurrence of such Indebtedness, the sum of (a) the amount of such Indebtedness then being incurred <u>plus</u> (b) all other Indebtedness (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Borrower or the applicable Restricted Subsidiary thereunder) of the Borrower and its Restricted Subsidiaries incurred pursuant to clauses (i) and (iv) above (other than the Senior Notes) and this clause (viii) then outstanding does not exceed an amount equal to the sum of (w) for each Rig for which the Company or any Restricted Subsidiary has entered into a contract for the construction or acquisition of such Rig but which has not yet been delivered or acquired, the greater of (1) \$500,000,000 and (2) 75% of the Rig Value for such Rig at such time <u>plus</u> (x) for each other Rig owned by the Company or any Restricted Subsidiary that is not a Credit Party, the greater of (1) \$425,000,000 and (2) 70% of the Appraised Value for such Rig at such time <u>plus</u> (y) \$150,000,000,000 <u>plus</u> (z) the greater of (1) \$100,000,000 and (2) 2.5% of Consolidated Net Tangible Assets at such time;
 - (ix) Capitalized Lease Obligations in an amount not to exceed \$25,000,000 in the aggregate at any one time;
- (x) Indebtedness of an Acquired Entity or Business (and any refinancing or replacement thereof); <u>provided</u> that (w) such Indebtedness existed at the time such Acquired Entity or Business was acquired, (x) in each case, was not created in anticipation thereof, (y) no Credit Party (other than the Acquired Entity or Business subject to such acquisition to the extent that it becomes a Credit Party as a result thereof) guarantees or otherwise becomes liable for such Indebtedness and (z) both before and after giving effect to such additional Indebtedness, the Borrower and its Restricted Subsidiaries shall be in <u>proforma</u> compliance with the financial covenants contained in Sections 10.07 and 10.08; and
 - (xi) other Indebtedness in an amount not to exceed \$5,000,000 in the aggregate at any one time outstanding.
- 10.05 Advances, Investments and Loans. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, lend money or credit or make advances to any Person, or purchase or acquire any stock, obligations or securities of, or any other interest in, or make any capital contribution to, any other Person, or purchase or own a futures contract or otherwise become liable for the purchase or sale of currency or other commodities at a future date in the nature of a futures contract, or hold any cash or Cash Equivalents (each of the foregoing an "Investment" and, collectively, "Investments"), except that the following shall be permitted:
 - (i) the Borrower and any of its Restricted Subsidiaries may acquire and hold accounts receivables owing to any of them, if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms of such Restricted Subsidiary of the Borrower;

- (ii) the Borrower and any of its Restricted Subsidiaries may acquire and hold cash and Cash Equivalents;
- (iii) the Borrower and its Restricted Subsidiaries may hold the Investments held by them on the Effective Date and described on <u>Schedule 10.05</u>, <u>provided</u> that any additional Investments made with respect thereto shall be permitted only if permitted under the other provisions of this Section 10.05;
- (iv) the Borrower and any of its Restricted Subsidiaries may acquire and own Investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers and customers and in good faith settlement of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business;
- (v) the Borrower and any of its Restricted Subsidiaries may make loans and advances to their officers and employees for moving, relocation and travel expenses and other similar expenditures, in each case in the ordinary course of business in an aggregate amount not to exceed \$2,500,000 at any time (determined without regard to any write-downs or write-offs of such loans and advances);
- (vi) the Borrower and its Restricted Subsidiaries may enter into and perform their obligations under (x) Interest Rate Protection Agreements to the extent permitted by Section 10.04(ii) and (y) Other Hedging Agreements entered into in the ordinary course of business so long as each such Other Hedging Agreement is non-speculative in nature;
- (vii) the Borrower and its Restricted Subsidiaries may make intercompany loans and advances between and among one another (such intercompany loans and advances, "Intercompany Loans"), in each case so long as each Intercompany Loan made to a Credit Party by a Restricted Subsidiary that is not a Credit Party is subject to the provisions of the Intercompany Subordination Agreement (which Intercompany Subordination Agreement must have been executed by the obligor and obligee of each such Intercompany Loan);
- (viii) the Borrower and its Restricted Subsidiaries may make Investments (other than those governed by clause (vii) above) in the Borrower or any of its Restricted Subsidiaries;
- (ix) the Borrower and any of its Restricted Subsidiaries may make Investments in Unrestricted Subsidiaries; <u>provided</u> that the aggregate amount of Investments in Unrestricted Subsidiaries shall not exceed \$25,000,000 at any one time outstanding;

- (x) so long as no Default or Event of Default then exists or would result therefrom, the Borrower and any of its Restricted Subsidiaries may make cash capital contributions and/or loans to Joint Ventures in an aggregate amount not to exceed \$10,000,000 in any fiscal year of the Borrower;
- (xi) so long as no Default or Event of Default then exists or would result therefrom, the Borrower and any Restricted Subsidiary may acquire Investments in an Acquired Entity or Business; <u>provided</u> that, both before and after giving effect to such additional Investments, the Borrower and its Restricted Subsidiaries shall be in <u>proforma</u> compliance with the financial covenants set forth in Sections 10.07 and 10.08;
- (xii) the Borrower and any of its Restricted Subsidiaries may make Investments that have maturities under three years; <u>provided</u> that, both before and after giving effect to such additional Investments, the Borrower and its Restricted Subsidiaries shall be in <u>pro forma</u> compliance with the financial covenants set forth in Sections 10.07 and 10.08;
- (xiii) so long as no Default or Event of Default then exists or would result therefrom, Borrower, its Restricted Subsidiaries that are not Credit Parties and PIDWAL may make other Investments not in an Unrestricted Subsidiary; <u>provided</u> that, both before and after giving effect to such additional Investments, the Borrower and its Restricted Subsidiaries shall be in <u>pro forma</u> compliance with the financial covenants set forth in Sections 10.07 and 10.08; and
- (xiv) so long as no Default or Event of Default then exists or would result therefrom, the Borrower and its Restricted Subsidiaries may make Investments in an aggregate amount not to exceed \$5,000,000.
- 10.06 <u>Transactions with Affiliates</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, enter into any transaction or series of related transactions with any Affiliate of the Borrower or any of its Restricted Subsidiaries (other than with the Borrower or its Restricted Subsidiaries), other than in the ordinary course of business and on terms and conditions substantially as favorable to the Borrower or such Restricted Subsidiary as would reasonably be obtained by the Borrower or such Restricted Subsidiary at that time in a comparable arm's-length transaction with a Person other than an Affiliate, except that the following in any event shall be permitted:
 - (i) Dividends may be paid to the extent provided in Section 10.03;
 - (ii) loans may be made and other transactions may be entered into by the Borrower and its Restricted Subsidiaries to the extent permitted by Sections 10.02, 10.04 and 10.05;
 - (iii) customary fees may be paid to non-officer directors of the Borrower and its Restricted Subsidiaries;

- (iv) the Borrower and its Restricted Subsidiaries may enter into, and may make payments under, employment agreements, employee benefits plans, stock option plans, indemnification provisions and other similar compensatory arrangements (including arrangements made with respect to bonuses) with officers and directors of the Borrower and its Subsidiaries in the ordinary course of business;
- (v) the Borrower and its Restricted Subsidiaries may make Investments in a Person engaged in a business permitted pursuant to Section 10.15 so long as such Person becomes a Restricted Subsidiary of the Borrower; and
- (vi) the Borrower and its Restricted Subsidiaries may enter into employment agreements or arrangements with their respective officers in the ordinary course of business.
- 10.07 <u>Maximum Leverage Ratio</u>. The Borrower will not permit the Leverage Ratio on the last day of any fiscal quarter of the Borrower ending during the periods specified below to be greater than the corresponding ratio set forth below:

<u>Period</u>	Maximum Ratio
December 31, 2013 through March 31, 2014	5.75 to 1.00
June 30, 2014 and December 31, 2014	5.25 to 1.00
March 31, 2015 through September 30, 2015	4.75 to 1.00
December 31, 2015 and thereafter	4.25 to 1.00

- 10.08 Minimum Liquidity. The Borrower will at all times maintain, in one or more accounts of the Borrower or any of its Restricted Subsidiaries, unrestricted cash and Cash Equivalents (other than restrictions and Liens created pursuant to the Credit Documents or other documents governing the Senior Notes and Senior Term Loans (including any refinancings or replacements thereof), to the extent such Liens are permitted by Section 10.01), which, when taken together with the Total Unutilized Commitment available for Loans, is not less than \$100,000,000; provided that, if at any time following the repayment in full of the SSCF, no Letters of Credit denominated in Alternative Currencies are outstanding, such amount shall be reduced to \$50,000,000.
- 10.09 <u>Use of Proceeds</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to use the proceeds of any Credit Event, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry Margin Stock or to extend credit to others for the purpose of purchasing or carrying Margin Stock or to refund Indebtedness originally incurred for such purpose.
- 10.10 Accounting Changes; Changes in Fiscal Year. The Borrower shall not, and shall not permit any Restricted Subsidiary to permit (a) any change in any of its accounting policies affecting the presentation of financial statements or reporting practices, except as required or permitted by GAAP or (b) the fiscal year of the Borrower or any of its Restricted Subsidiaries to end on a day other than December 31 or change the Borrower's method of determining fiscal quarters.

10.11 Certificate of Incorporation, By-Laws and Certain Other Agreements, etc. The Borrower will not, and will not permit any Credit Party to (or, in the case of the following clause (i) of this Section 10.11, the Borrower will exercise its rights in relation to each Restricted Subsidiary (whether as shareholder, stockholder, partner, and arising under contract, statute or howsoever) so that each Restricted Subsidiary shall not):

- (i) amend, modify or change its certificate or articles of incorporation (including, without limitation, by the filing or modification of any certificate or articles of designation), certificate of formation, limited liability company agreement or bylaws (or the equivalent organizational documents), as applicable, or any agreement entered into by it with respect to its capital stock or other equity interests, or enter into any new agreement with respect to its capital stock or other equity interests, unless such amendment, modification, change or other action contemplated by this clause (i) could not reasonably be expected to be adverse to the interests of the Lenders (other than in an immaterial respect) or is otherwise consented to by the Administrative Agent, in its reasonable discretion; <u>provided</u> that (x) amendments, modifications or changes to the relevant organizational documents of any Restricted Subsidiary shall be permitted to reflect any Liens permitted pursuant to Section 10.01 and (y) notwithstanding the foregoing, the Subsidiary Guarantors may change their respective domiciles to Luxembourg or Gibraltar so long as the Liens granted or purported to be granted pursuant to the Credit Documents are not adversely affected in any material respect; or
- (ii) amend, modify or change any provision of (x) the documents governing the Senior Notes or the Senior Term Loan (including any refinancings or replacements thereof) permitted to remain outstanding pursuant to Section 10.04(iv) or (y) the SSCF (including any refinancings or replacements thereof) permitted to remain outstanding pursuant to Section 10.04(iii), in each case, in any manner that (a) would (I) shorten the maturity thereof, (II) increase the amortization therefor, (III) increase the pricing thereof by more than 3% per annum or (IV) grant additional collateral from any Credit Party (other than PIDWAL) (except for any additional collateral securing the Senior Notes and the Senior Term Loans; provided that such collateral is at all times subject to the Intercreditor Agreement and is granted as additional collateral to secure the Secured Obligations) or (b) otherwise could reasonably be expected to be materially adverse to the Lenders, unless such amendments, modifications or changes are consented to by the Administrative Agent in its reasonable discretion.
- 10.12 <u>Limitation on Certain Restrictions on Subsidiaries</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any encumbrance or restriction on the ability of any such Restricted Subsidiary to (a) pay Dividends or make any other distributions on its Capital Stock or any other interest or participation in its profits owned by the Borrower or any of its Restricted Subsidiaries, or pay any Indebtedness owed to the Borrower or any of its Restricted Subsidiaries or (c) transfer any of its properties or assets to the Borrower or any of its Restricted Subsidiaries, except for such encumbrances or restrictions existing under or by reason of:

(i) applicable law;

- (ii) this Agreement and the other Credit Documents;
- (iii) customary provisions restricting subletting or assignment of any lease governing any leasehold interest of the Borrower or any of its Restricted Subsidiaries;
- (iv) customary provisions restricting assignment of any agreement entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;
 - (v) restrictions on the transfer of any asset pending the close of the sale of such asset;
- (vi) restrictions on the transfer of any asset subject to a Lien permitted by Section 10.01(iii), (v), (vi), (xi), (xi), (xii) and (xiii); provided that, with respect to Liens permitted by Section 10.01(v), the encumbrances and restrictions contained therein, including any related collateral documents, and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings thereof are not materially more restrictive, taken as a whole, with respect to such restrictions than those contained in this Agreement and the other Credit Documents;
- (vii) restrictions applicable to the Borrower or any Restricted Subsidiary contained in any documents governing any Indebtedness permitted pursuant to Section 10.04 which, when taken as a whole, are not materially more restrictive than those contained in this Agreement and are customary for the type of such Indebtedness, in each case, as determined by the Borrower in good faith; and
- (viii) restrictions applicable to the Borrower, its Restricted Subsidiaries that are not Credit Parties and PIDWAL contained in any documents governing any Indebtedness permitted pursuant to Section 10.04 which are customary for the type of such Indebtedness, and such restrictions would not reasonably be expected to materially impair the Borrower's ability to pay the Obligations when due, in each case, as determined by the Borrower in good faith.
- 10.13 <u>Designating Unrestricted Subsidiaries and Restricted Subsidiaries</u>. (a) The Borrower may designate any Subsidiary (including any newly formed or newly acquired Subsidiary but excluding any Equity-Owning Subsidiary and any Collateral Vessel-Owning Subsidiary) of Borrower as an Unrestricted Subsidiary hereunder (a "<u>Designation</u>") only if:
 - (i) no Default or Event of Default shall have occurred and be continuing at the time of or after giving effect to such Designation; and

- (ii) the Borrower or any Restricted Subsidiary would be permitted to make, at the time of such Designation, an Investment pursuant to Section 10.05 in an amount (the "<u>Designation Amount</u>") equal to the fair market value of Borrower's or such Restricted Subsidiary's proportionate interest in such Subsidiary on such date.
- (b) No Subsidiary shall be Designated as an Unrestricted Subsidiary unless:
- (i) all of the Indebtedness of such Subsidiary and its Subsidiaries shall, at the time of Designation, consist of Non-Recourse Debt, except any guarantee given solely to support the pledge by the Borrower or any Restricted Subsidiary of the Capital Stock of such Unrestricted Subsidiary, which guarantee is not recourse to the Borrower or any Restricted Subsidiary;
- (ii) on the date such Subsidiary is Designated an Unrestricted Subsidiary, such Subsidiary is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary unless the terms of the agreement, contract, arrangement or understanding, taken as a whole, are not materially less favorable to the Borrower or such Restricted Subsidiary than those that could reasonably be expected to have been obtained at the time from persons who are not Affiliates of the Borrower, as determined in good faith by the Borrower;
- (iii) such Subsidiary is a person with respect to which neither the Borrower nor any Restricted Subsidiary has any direct or indirect obligation (a) to subscribe for additional Capital Stock of such person or (b) to maintain or preserve the person's financial condition or to cause the person to achieve any specified levels of operating results; and
- (iv) such Subsidiary has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Borrower or any Restricted Subsidiary, except for any pledge of the Capital Stock of such Unrestricted Subsidiary to secure Indebtedness of the Borrower or any Restricted Subsidiary.
- (c) If, at any time, any Unrestricted Subsidiary fails to meet the preceding requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes hereof and any Indebtedness of the Subsidiary and any Liens on assets of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary at such time and, if the Indebtedness is not permitted to be incurred under Section 10.04 or the Lien is not permitted under Section 10.01, the Borrower shall be in default of the applicable covenant.
 - (d) The Borrower may redesignate an Unrestricted Subsidiary as a Restricted Subsidiary (a "Redesignation") only if:
 - (i) no Default or Event of Default shall have occurred and be continuing at the time of and after giving effect to such Redesignation; and

- (ii) all Liens, Indebtedness and Investments of such Unrestricted Subsidiary outstanding immediately following such Redesignation would, if incurred or made at such time, have been permitted to be incurred or made for all purposes hereof.
- (e) All Designations and Redesignations must be evidenced by resolutions of the Board of Directors of Borrower, delivered to the Administrative Agent certifying compliance with the foregoing provisions.
- 10.14 Change of Ownership; Registry; Class; Management; Legal Names; Type of Organization (and whether a Registered Organization); Jurisdiction of Organization; etc. (a) Neither the Borrower nor any Collateral Vessel-Owning Subsidiary shall transfer or change the flag, registry, class, or management or control to a party other than the Borrower or a Subsidiary Guarantor (other than as set forth in this Agreement), of any Collateral Rig without the written consent of the Administrative Agent, such consent not to be unreasonably withheld; provided that the flag of any Collateral Rig may be changed to an Approved Flag State without such prior written consent.
- (b) The Borrowers shall not, and shall procure that no charterer shall, let or employ a Collateral Rig: (i) on demise charter (except an Internal Charter) for any period, (ii) on any time or consecutive voyage charter for a term which exceeds, or which by virtue of any optional extensions therein contained may exceed, twelve (12) months' duration, but excluding any Drilling Contract, or (iii) on terms which permit the charterer or operator to purchase a Collateral Rig.
- (c) The Borrower shall not and shall not permit any Collateral Vessel-Owning Subsidiary to permit any Collateral Rig to enter into the waters of any country or jurisdiction where to do so would, or reasonably could be expected to, result in all or any part of any Insurance Collateral in respect of a Collateral Rig being governed by the laws or other legal requirements of such country or jurisdiction where previously it was not or by any law or other legal requirements that are not the same as those laws or other legal requirements governing any applicable Security Documents that have been entered into in respect of such Insurance Collateral (in each case, the "New Legal Requirements") unless and until the Administrative Agent shall have confirmed that: (i) additional Liens reasonably satisfactory to it have been created and perfected by or on behalf of the relevant Credit Party and any other relevant Person in respect of the relevant Insurance Collateral and under the New Legal Requirements (the "Additional Insurance Security") and (ii) it has received one or more legal opinions in form and substance reasonably satisfactory to the Administrative Agent in respect of such Additional Insurance Security.
- (d) Neither the Borrower nor any other Credit Party shall change its legal name, its type of organization, its status as a registered organization (in the case of any Credit Party that is a Domestic Subsidiary), its jurisdiction of organization, its location, or its organizational identification number (in the case of any Credit Party that is a Domestic Subsidiary), except that any such changes shall be permitted (so long as not in violation of the applicable requirements of the Security Documents and so long as same do not involve (w) in the case of any Credit Party that is a Domestic Subsidiary, a registered organization ceasing to constitute the same, (x) the Borrower ceasing to constitute a corporation organized under the laws of Luxembourg and (y)

any Credit Party that is a Domestic Subsidiary changing its jurisdiction of organization or location from the United States or a State thereof, to a jurisdiction of organization or location, as the case may be, outside the United States or a State thereof) if (i) it shall have given to the Pari Passu Collateral Agent not less than 15 days' prior written notice of each change to the information listed on Schedule 8.16 (as adjusted for any subsequent changes thereto previously made in accordance with this sentence), together with a supplement to Schedule 8.16 which shall correct all information contained therein for the Borrower or such Subsidiary of the Borrower, and (ii) in connection with the respective such change or changes (I) such Person shall have taken all action reasonably requested by the Pari Passu Collateral Agent to maintain the security interests of the Pari Passu Collateral Agent in the Collateral intended to be granted hereby at all times fully perfected and in full force and effect and (II) the Administrative Agent is reasonably satisfied that the rights of the Lenders under such Subsidiary Guaranty to which such Person is a party are not impaired in any respect.

- 10.15 <u>Business</u>. The Borrower will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than any business conducted by the Borrower and its Restricted Subsidiaries on the Effective Date and any other business or activities as may be substantially similar, incidental or related thereto.
- 10.16 <u>ERISA</u>. The Borrower will not, and will not permit any of its Subsidiaries, nor any ERISA Affiliate to, (i) engage in any "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code which would result in a material liability for the Borrower or any of its Subsidiaries; or (ii) sponsor, maintain, make contributions to or incur liabilities in respect of any Plan which is subject to Title IV of ERISA or Section 302 of ERISA to the extent such action (or actions in the aggregate under this clause (ii)) could reasonably be expected to have a Material Adverse Effect.
- 10.17 Employment of Collateral Rigs. The Borrower shall not and shall not permit any Collateral Vessel-Owning Subsidiary to knowingly or recklessly employ any Collateral Rig or suffer its employment in any trade or business which is forbidden by any applicable law or is otherwise illicit or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation in a prize court or to destruction, seizure or confiscation or that may expose a Collateral Rig to penalties or sanctions.
- 10.18 <u>Sovereign immunity</u>. The Borrower shall not and shall not permit any Restricted Subsidiary to, in any proceeding in the jurisdiction of its incorporation or elsewhere in connection with any of the Credit Documents, claim for itself or any of its assets sovereign immunity from suit, execution, attachment or other legal process.
- SECTION 11. Events of Default. Upon the occurrence of any of the following specified events (each shall constitute an "Event of Default"):
- 11.01 <u>Payments</u>. The Borrower shall (i) default in the payment when due of any principal of any Loan or any Note or (ii) default, and such default shall continue unremedied for three or more Business Days, in the payment when due of any interest on any Loan or Note, any Unpaid Drawing or any Fees or any other amounts owing hereunder or under any other Credit Document; or

11.02 <u>Representations, etc.</u> Any representation, warranty or statement made or deemed made by any Credit Party herein or in any other Credit Document or in any certificate delivered to the Administrative Agent or any Lender pursuant hereto or thereto shall prove to be untrue or misleading in any material respect on the date as of which made or deemed made; or

11.03 <u>Covenants</u>. The Borrower or any of its Restricted Subsidiaries shall (i) default in the due performance or observance by it of any term, covenant or agreement contained in Section 2.13(a)(iii), 9.01(g), 9.03(a)(ii), 9.04 (solely with respect to the Borrower), 9.10 or 10 or (ii) default in the due performance or observance by it of any other term, covenant or agreement (other than those referred to in Section 11.01, 11.02 or clause (i) of this Section 11.03) contained in this Agreement or any other Credit Document and, in the case of this clause (ii), such default shall continue for a period of thirty (30) days (or such shorter grace period as is expressly provided for in the applicable Credit Document) after the earlier of (A) the Administrative Agent's or the Required Lenders' delivery of written notice thereof to the Borrower and (B) an Authorized Representative of the Borrower or any Subsidiary having obtained knowledge thereof; or

11.04 <u>Default Under Other Agreements</u>. With respect to (w) the SSCF, (x) the Senior Notes, (y) the Senior Term Loan or (x) any other Indebtedness (other than the Obligations and intercompany Indebtedness) in an aggregate principal amount greater than \$25,000,000, (i) the Borrower or any of its Restricted Subsidiaries shall default in any payment beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created or (ii) the Borrower or any of its Restricted Subsidiaries shall default in the observance or performance of any agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, the effect of which default is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause (determined without regard to whether any notice is required), any such Indebtedness to become due prior to its stated maturity, <u>provided</u> that it shall not be an Event of Default under this Section 11.04 if a waiver of any of the defaults described in the preceding clauses (i) through (ii) has been obtained; or

11.05 <u>Bankruptcy, etc.</u> Any Credit Party or any Subsidiary which owns one or more Rigs shall commence a voluntary case concerning itself under Title 11 of the United States Code entitled "Bankruptcy," as now or hereafter in effect, or any successor thereto (the "Bankruptcy Code"); or an involuntary case is commenced against any Credit Party or any Subsidiary which owns one or more Rigs and the petition is not dismissed within 60 days, after commencement of the case; or a custodian (as defined in the Bankruptcy Code) is appointed for, or takes charge of, all or substantially all of the property of any Credit Party or any Subsidiary which owns one or more Rigs or any Credit Party or any Subsidiary which owns one or more Rigs commences any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction (other than as permitted pursuant to Section 10.02) whether now or hereafter in effect relating to any Credit Party or any Subsidiary which owns one or more Rigs or there is commenced against any Credit Party or any Subsidiary which owns one or more Rigs, any such proceeding which remains undismissed for a period of 60 days, or any Credit Party or any Subsidiary which owns one or more Rigs is adjudicated insolvent or bankrupt; or any order of relief or other order

approving any such case or proceeding is entered; or any Credit Party or any Subsidiary which owns one or more Rigs suffers any appointment of any custodian or the like for it or any substantial part of its property to continue undischarged or unstayed for a period of 60 days; or any Credit Party or any Subsidiary which owns one or more Rigs makes a general assignment for the benefit of creditors; or any petition is presented (and in the case of a petition presented by a Person other than any Credit Party or any Subsidiary which owns one or more Rigs remains undischarged or unstayed for a period of 60 days); or any order is made by any competent court for winding up, dissolution or the appointment of a liquidator; or any resolution is passed by any Credit Party or any Subsidiary which owns one or more Rigs for its winding up or dissolution or the appointment of a liquidator of any Credit Party or any Subsidiary which owns one or more Rigs; or any corporate action is taken by any Credit Party or any Subsidiary which owns one or more Rigs; or any corporate action is taken by any Credit Party or any Subsidiary which owns one or more Rigs authorizing any of the foregoing; or

- 11.06 <u>ERISA</u>. (a) A contribution required to be made with respect to a Plan or a Foreign Pension Plan is not timely made, or the Borrower or any of its Subsidiaries has incurred or is reasonably likely to incur liabilities pursuant to one or more employee welfare benefit plans (as defined in Section 3(1) of ERISA) that provide benefits to retired employees or other former employees (other than as required by Section 601 of ERISA) or Plans or Foreign Pension Plans; (b) there shall result from any such event or events the imposition of a Lien, the granting of a security interest, or a liability or a material risk of incurring a liability; and (c) such Lien, security interest or liability, individually and/or in the aggregate, in the opinion of the Required Lenders, has had, or could reasonably be expected to have, a Material Adverse Effect; or
- 11.07 <u>Security Documents</u>. At any time after the execution and delivery thereof, any of the Security Documents shall cease to give the Pari Passu Collateral Agent, for the benefit of the Secured Creditors, any of the Liens, rights, powers and privileges purported to be created thereby (including, without limitation, a perfected security interest in, and Lien on, the Collateral Rigs and all of the other Collateral superior and prior to the rights of all third Persons (except in connection with Permitted Liens) and subject to no other Liens (except Permitted Liens)); <u>provided</u>, however, no Event of Default pursuant to this <u>Section 11.07</u> shall occur unless such cessation is in respect of Collateral with an aggregate value exceeding \$25,000,000; or
- 11.08 <u>Guaranties</u>. Any Subsidiary Guaranty or any provision thereof shall cease to be in full force and effect, or any Subsidiary Guarantor or any Person acting by or on behalf of such Subsidiary Guarantor, shall deny or disaffirm such Subsidiary Guarantor's obligations under the relevant Subsidiary Guaranty; or
- 11.09 <u>Judgments</u>. One or more judgments or decrees shall be entered against the Borrower or any of its Restricted Subsidiaries (i) involving in the aggregate for the Borrower and its Restricted Subsidiaries a liability (not paid or fully covered by a reputable and solvent insurance company), and the aggregate amount of all such judgments, to the extent not covered by insurance, equals or exceeds \$25,000,000 or (ii) if not involving a monetary liability or judgment, such judgments or decrees, individually or in the aggregate, in the opinion of the Required Lenders, have had, or could reasonably be expected to have, a Material Adverse Effect, and in each case, such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of 30 consecutive days; or

11.10 Change of Control . A Change of Control shall occur; or

11.11 <u>Credit Documents</u>. At any time after the execution and delivery thereof, any of the Credit Documents shall cease to be valid, binding and enforceable on the Credit Parties party thereto, or any Person acting on behalf of any Credit Party shall deny or disaffirm that such Credit Document is then valid, binding and enforceable against any Credit Party;

then, and in any such event, and at any time thereafter, if any Event of Default shall then be continuing, the Administrative Agent or the Pari Passu Collateral Agent, as applicable, upon the written request of the Required Lenders, shall by written notice to the Borrower, take any or all of the following actions, without prejudice to the rights of the Administrative Agent, any Lender or the holder of any Note to enforce its claims against any Credit Party (provided that if an Event of Default specified in Section 11.05 shall occur, the result which would occur upon the giving of written notice by the Administrative Agent to the Borrower as specified in clauses (i) and (ii) below shall occur automatically without the giving of any such notice): (i) declare the Total Commitment terminated, whereupon all Commitments of each Lender shall forthwith terminate immediately and any accrued and unpaid Commitment Fees shall forthwith become due and payable without any other notice of any kind; (ii) declare the principal of and any accrued interest in respect of all Loans and the Notes and all Obligations owing hereunder and thereunder to be, whereupon the same shall become, forthwith due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Credit Party; (iii) terminate any Letter of Credit which may be terminated in accordance with its terms; (iv) direct the Borrower to pay (and the Borrower agrees that upon receipt of such notice, or upon the occurrence of Event of Default specified in Section 11.05 with respect to the Borrower, to pay) to the Administrative Agent at the Payment Office such additional amount of cash or Cash Equivalents, to be held as security by the Administrative Agent, as is equal to the aggregate Stated Amount of all Letters of Credit issued for the account of the Borrower then outstanding; (v) enforce, as Pari Passu Collateral Agent, all of the Liens and security interests created pursuant to the Security Documents; and (vi) apply any cash collateral held by the Administrative Agent pursuant to Section 5.02 to the repayment of the Obligations.

SECTION 12. The Administrative Agent.

12.01 <u>Appointment</u>. The Lenders in their capacities as Lenders and Other Creditors hereby irrevocably designate and appoint Citibank, N.A. as Administrative Agent to act as specified herein and in the other Credit Documents. Each Lender hereby irrevocably authorizes, and each holder of any Note by the acceptance of such Note shall be deemed irrevocably to authorize, the Administrative Agent to take such action on its behalf under the provisions of this Agreement, the other Credit Documents and any other instruments and agreements referred to herein or therein and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of the Administrative Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto. The Administrative Agent may perform any of its respective duties hereunder by or through its officers, directors, agents, employees or affiliates.

- 12.02 Nature of Duties . (a) The Administrative Agent shall not have any duties or responsibilities except those expressly set forth in this Agreement and in the other Credit Documents. Neither the Administrative Agent nor any of its officers, directors, agents, employees or affiliates shall be liable for any action taken or omitted by it or them hereunder or under any other Credit Document or in connection herewith or therewith, unless caused by its or their gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non–appealable decision). The duties of the Administrative Agent shall be mechanical and administrative in nature; the Administrative Agent shall not have by reason of this Agreement or any other Credit Document a fiduciary relationship in respect of any Lender or the holder of any Note, and nothing in this Agreement or in any other Credit Document, expressed or implied, is intended to or shall be so construed as to impose upon the Administrative Agent any obligations in respect of this Agreement or any other Credit Document except as expressly set forth herein or therein.
- (b) It is understood and agreed that the use of the term "agent" herein or in any other Credit Documents (or any other similar term) with reference to the Administrative Agent in such capacity is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.
- (c) The Administrative Agent, in such capacity, shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:
 - (i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or an Event of Default has occurred and is continuing;
 - (ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents); <u>provided</u> that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any law for the general relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any law for the general relief of debtors; and
 - (iii) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

12.03 Lack of Reliance on the Administrative Agent. Independently and without reliance upon the Administrative Agent, each Lender and the holder of each Note, to the extent it deems appropriate, has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of the Borrower and its Subsidiaries in connection with the making and the continuance of the Loans and the taking or not taking of any action in connection herewith and (ii) its own appraisal of the creditworthiness of the Borrower and its Subsidiaries and, except as expressly provided in this Agreement, the Administrative Agent shall not have any duty or responsibility, either initially or on a continuing basis, to provide any Lender or the holder of any Note with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter. The Administrative Agent shall not be responsible to any Lender or the holder of any Note for any recitals, statements, information, representations or warranties herein or in any document, certificate or other writing delivered in connection herewith or for the execution, effectiveness, genuineness, validity, enforceability, perfection, collectability, priority or sufficiency of this Agreement or any other Credit Document or the financial condition of the Borrower and its Subsidiaries or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement or any other Credit Document, or the financial condition of the Borrower and its Subsidiaries or the existence or possible existence of any Default or Event of Default.

12.04 Certain Rights of the Administrative Agent. If the Administrative Agent requests instructions from the Required Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Credit Document, the Administrative Agent shall be entitled to refrain from such act or taking such action unless and until the Administrative Agent shall have received instructions from the Required Lenders; and the Administrative Agent shall not incur liability to any Lender by reason of so refraining. Without limiting the foregoing, neither any Lender nor the holder of any Note shall have any right of action whatsoever against the Administrative Agent as a result of the Administrative Agent acting or refraining from acting hereunder or under any other Credit Document in accordance with the instructions of the Required Lenders.

12.05 <u>Reliance</u>. The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, telex, teletype or telecopier message, cablegram, radiogram, order or other document or telephone message signed, sent or made by any Person that the Administrative Agent believed to be the proper Person, and, with respect to all legal matters pertaining to this Agreement and any other Credit Document and its duties hereunder and thereunder, upon advice of counsel selected by the Administrative Agent.

12.06 <u>Indemnification</u>. To the extent the Administrative Agent or the Pari Passu Collateral (or any of their respective Affiliates) is not reimbursed and indemnified by

the Borrower, the Lenders will reimburse and indemnify the Administrative Agent or the Pari Passu Collateral Agent, as applicable (and their respective Affiliates and their respective partners, members, directors, officers, agents, employees and controlling persons (if any), as the case may be, of the Administrative Agent, the Pari Passu Collateral Agent and such Affiliate) in proportion to their respective Percentages (as determined as if there were no Defaulting Lenders), for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent or the Pari Passu Collateral Agent (or any of their respective Affiliates) in performing its duties hereunder or under any other Credit Document, or in any way relating to or arising out of this Agreement or any other Credit Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's or the Pari Passu Collateral Agent's (or such Affiliate's) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision); provided further that nothing in this Section 12.06 shall serve to relieve any Credit Party of its indemnification obligations under this Agreement and the other Credit Documents.

12.07 The Administrative Agent in its Individual Capacity. With respect to its obligation to make Loans, or issue or participate in Letters of Credit, under this Agreement, the Administrative Agent shall have the rights and powers specified herein for a "Lender" and may exercise the same rights and powers as though it were not performing the Administrative Agent duties specified herein; and the term "Lender," "Required Lenders" or any similar terms shall, unless the context clearly indicates otherwise, include the Administrative Agent in its respective individual capacities. The Administrative Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of banking, investment banking, trust or other business with, or provide debt financing, equity capital or other services (including financial advisory services) to any Credit Party or any Affiliate of any Credit Party (or any Person engaged in a similar business with any Credit Party or any Affiliate thereof) as if they were not performing the duties specified herein, and may accept fees and other consideration from any Credit Party or any Affiliate of any Credit Party for services in connection with this Agreement and otherwise without having to account for the same to the Lenders.

12.08 <u>Holders</u>. The Administrative Agent may deem and treat the payee of any Note as the owner thereof for all purposes hereof unless and until a written notice of the assignment, transfer or endorsement thereof, as the case may be, shall have been filed with the Administrative Agent. Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is the holder of any Note shall be conclusive and binding on any subsequent holder, transferee, assignee or endorsee, as the case may be, of such Note or of any Note issued in exchange therefor.

12.09 <u>Resignation by the Administrative Agent</u>. (a) The Administrative Agent may resign from the performance of all its respective functions and duties hereunder and/or under the other Credit Documents at any time by giving written notice to the Lenders and, unless a Default or an Event of Default under <u>Section 11.05</u> then exists, the Borrower. Any such resignation by an Administrative Agent hereunder shall also constitute its resignation as an Issuing Lender, in which case the resigning Administrative Agent (x) shall not be required to

issue any further Letters of Credit hereunder and (y) shall maintain all of its rights as Issuing Lender with respect to any Letters of Credit issued by it, prior to the date of such resignation. Such resignation shall take effect upon the appointment of a successor Administrative Agent pursuant to clauses (b) and (c) below or as otherwise provided below.

- (b) Upon any such notice of resignation by the Administrative Agent, the Required Lenders shall appoint a successor Administrative Agent hereunder or thereunder who shall be a commercial bank or trust company reasonably acceptable to the Borrower, which acceptance shall not be unreasonably withheld or delayed (<u>provided</u> that the Borrower's approval shall not be required if an Event of Default then exists).
- (c) If a successor Administrative Agent shall not have been so appointed within 15 days of the date of the applicable notice of resignation, the Administrative Agent may then (but is not obligated to) appoint a successor Administrative Agent who shall serve as Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above.
- (d) The Administrative Agent's resignation will, to the fullest extent permitted by applicable law, be effective on the earlier of (i) the date a replacement Administrative Agent is appointed and (ii) the date 30 days after the giving of such notice of resignation by the Administrative Agent (regardless of whether a replacement Administrative Agent has been appointed pursuant to clauses (b) and (c) above). If no successor Administrative Agent has been appointed pursuant to clause (b) or (c) by the date on which the Administrative Agent's resignation becomes effective, the Required Lenders shall thereafter perform all the duties of the Administrative Agent hereunder and/or under any other Credit Document until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided above.
- (e) Anything herein to the contrary notwithstanding, if at any time the Required Lenders determine that the Person serving as Administrative Agent is (without taking into account any provision in the definition of "Defaulting Lender" requiring notice from the Administrative Agent or any other party) a Defaulting Lender pursuant to clause (v) of the definition thereof, the Required Lenders (determined after giving effect to Section 13.12) may by notice to the Borrower and such Person remove such Person as Administrative Agent and appoint a replacement Administrative Agent hereunder. Such removal will, to the fullest extent permitted by applicable law, be effective on the earlier of (i) the date a replacement Administrative Agent is appointed and (ii) the date 30 days after the giving of such notice by the Required Lenders (regardless of whether a replacement Administrative Agent has been appointed).
- 12.10 Co-Collateral Agent; Separate Collateral Agent. At any time or from time to time, in order to comply with any applicable requirement of law, the Administrative Agent may appoint another bank or trust company or one or more other persons, either to act as co-agent or agents on behalf of the Administrative Agent and the other Secured Creditors with such power and authority as may be necessary for the effectual operation of the provisions hereof and which may be specified in the instrument of appointment (which may, in the discretion of the Administrative Agent, include provisions for indemnification and similar protections of such co-agent or separate agent substantially the same as those contained herein). Notwithstanding

anything to the contrary contained herein, every such agent, sub-collateral agent and every co-agent shall, to the extent permitted by law, be appointed and act and be such, subject to the condition that no power given hereby, or which is provided herein or in any other Credit Document to any such co-agent, sub-collateral agent or agent shall be exercised hereunder or thereunder by such co-agent or agent except jointly with, or with the consent in writing of, the Administrative Agent.

12.11 Other Agents. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Credit Document, none of the Syndication Agents, Lead Arrangers or Bookrunners listed on the cover page hereof or otherwise a party hereto (collectively, the "Other Agents") shall have any powers, duties or responsibilities, nor shall the Other Agents have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Credit Document or otherwise exist against any Other Agent.

SECTION 13. Miscellaneous.

13.01 Payment of Expenses, etc. The Borrower hereby agrees to: (i) whether or not the transactions herein contemplated are consummated, pay all reasonable out-of-pocket costs and expenses of the Agents and their respective Affiliates and their partners, members, directors, officers, agents, employees and controlling persons (if any) (including the reasonable fees and disbursements of Baker Botts L.L.P., the Administrative Agent's special maritime counsel and, if reasonably necessary, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) in connection with the preparation, execution and delivery of this Agreement and the other Credit Documents and the documents and instruments referred to herein and therein and any amendment, waiver or consent relating hereto or thereto, of the Agents in connection with their syndication efforts with respect to this Agreement and of the Administrative Agent, each of the Issuing Lenders and each of the Lenders in connection with the enforcement of this Agreement and the other Credit Documents and the documents and instruments referred to herein and therein or protection of their rights hereunder or thereunder or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or pursuant to any insolvency or bankruptcy proceedings (ii) pay and hold the Administrative Agent, each of the Issuing Lenders and each of the Lenders harmless from and against any and all present and future stamp, documentary, transfer, sales and use, value added, excise and other similar taxes with respect to the foregoing matters, the performance of any obligation under this Agreement or any other Credit Document or any payment thereunder, and save the Administrative Agent, each of the Issuing Lenders and each of the Lenders harmless from and against any and all liabilities with respect to or resulting from any delay or omission (other than to the extent attributable to the Administrative Agent, such Issuing Lender or such Lender) to pay such taxes; and (iii) indemnify the Agents, each Issuing Lender and each Lender, and their respective Affiliates and their partners, members, directors, officers, agents, employees and controlling persons (if any) (each, an "Indemnified Party") from and hold each of them harmless against any and all liabilities, obligations (including removal or remedial actions), losses, damages, penalties, claims, actions, judgments, suits, costs, expenses and disbursements (including reasonable attorneys' and consultants' fees

and disbursements) incurred by, imposed on or assessed against any of them as a result of, or arising out of, or in any way related to, or by reason of, (a) any investigation, litigation or other proceeding (whether or not any Indemnified Party is a party thereto and whether or not such investigation, litigation or other proceeding is brought by or on behalf of any Credit Party or any third party) related to the entering into and/or performance of this Agreement or any other Credit Document or the use of any Letter of Credit or the proceeds of any Loans hereunder or the consummation of the Transaction or any other transactions contemplated herein or in any other Credit Document or the exercise of any of their rights or remedies provided herein or in the other Credit Documents, or (b) the actual or alleged presence of Hazardous Materials in the air, surface water or groundwater or on the surface of subsurface of any Rig or Real Property at any time owned, leased or operated by the Borrower or any of its Restricted Subsidiaries, the generation, storage, transportation, handling, disposal or Release of Hazardous Materials by the Borrower or any of its Restricted Subsidiaries at any location, whether or not owned, leased or operated by the Borrower or any of its Restricted Subsidiaries, the noncompliance with Environmental Law (including applicable permits thereunder) applicable to any Rig or Real Property at any time owned, leased, operated or occupied by the Borrower or any of its Restricted Subsidiaries, or any Environmental Claim asserted against the Borrower or any of its Restricted Subsidiaries, or any Rig or Real Property at any time owned, leased, operated or occupied by the Borrower or any of its Restricted Subsidiaries, including, in each case, the reasonable fees and disbursements of counsel and other consultants incurred in connection with any such investigation, litigation, claim or other proceeding; provided that no such Indemnified Party will be indemnified for costs, expenses or liabilities (i) to the extent determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of such Indemnified Party or (ii) to the extent arising from a litigation, claim or proceeding solely among such parties (other than claims against the Agents solely in their capacities as such, and other than any investigation, litigation, claim or proceeding arising out of any act or omission on the part of the Lenders, the Agents, or their respective Affiliates). To the extent that the undertaking to indemnify, pay or hold harmless any Indemnified Party set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, the Borrower shall make the maximum contribution to the payment and satisfaction of each of the indemnified liabilities which is permissible under applicable law.

Without limiting the Borrower's reimbursement, indemnification and contribution obligations set forth in this Section 13.01, in no event will such Indemnified Party have any liability for any indirect, consequential, special or punitive damages in connection with or as a result of such Indemnified Party's activities related to this Agreement or the other Credit Documents. In no event will the Borrower have any liability to the Indemnified Parties for any indirect, consequential, special or punitive damages in connection with or as a result of the Borrower's activities relating to this Agreement or the other Credit Documents, other than reimbursement, indemnity and contribution obligations set forth in this Section 13.01 relating to indirect, consequential, special or punitive damages for which an Indemnified Party is liable or as set forth elsewhere in this Agreement.

13.02 <u>Right of Setoff</u>. In addition to any rights now or hereafter granted under applicable law or otherwise, and not by way of limitation of any such rights, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent, each Issuing Lender and each Lender is hereby authorized at any time or from time to time, without

presentment, demand, protest or other notice of any kind to any Credit Party or to any other Person, any such notice being hereby expressly waived, to set off and to appropriate and apply any and all deposits (general or special) and any other Indebtedness at any time held or owing by the Administrative Agent, such Issuing Lender or such Lender (including, without limitation, by branches and agencies of the Administrative Agent, such Issuing Lender or such Lender wherever located) to or for the credit or the account of the Borrower or any of its Subsidiaries against and on account of the Obligations and liabilities of the Credit Parties to the Administrative Agent, such Issuing Lender or such Lender under this Agreement or under any of the other Credit Documents, including, without limitation, all interests in Obligations purchased by such Lender pursuant to Section 13.06(b), and all other claims of any nature or description arising out of or connected with this Agreement or any other Credit Document, irrespective of whether or not the Administrative Agent, such Issuing Lender or such Lender shall have made any demand hereunder and although said Obligations, liabilities or claims, or any of them, shall be contingent or unmatured; provided that in the event that any Defaulting Lender exercises any such right of setoff, (x) all amounts so set off will be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.13 and, pending such payment, will be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Lenders and the Lenders and (y) the Defaulting Lender will provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff.

13.03 Notices. (a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows: if to the Borrower, at the address specified opposite its signature below or in the other relevant Credit Documents; if to any Lender, at its address specified to the Administrative Agent from time to time and if to the Administrative Agent, at the Notice Office; or, as to the Borrower or the Administrative Agent, at such other address as shall be designated by such party in a written notice to the other parties hereto and, as to each Lender, at such other address as shall be designated by such Lender in a written notice to the Borrower and the Administrative Agent.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications, to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) <u>Electronic Communications</u>. Notices and other communications to the Lenders and the Issuing Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, <u>provided</u> that the foregoing shall not apply to notices to any Lender or Issuing Lender pursuant to Sections 2 and 3 if such Lender or Issuing Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under

such Articles by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; <u>provided</u> that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) <u>Change of Address, etc.</u> Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform.

- (i) Each Credit Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Issuing Lenders and the other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system (the "Platform").
- (ii) The Platform is provided "as is" and "as available." Neither Administrative Agent nor any of its Affiliates warrants the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Administrative Agent or any of its Affiliates in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Affiliates have any liability to the Borrower or the other Credit Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrower's, any Credit Party's or the Administrative Agent's transmission of communications through the Platform. "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Credit Party pursuant to any Credit Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or any Issuing Lender by means of electronic communications pursuant to this Section, including through the Platform.

13.04 Benefit of Agreement; Assignments; Participations . (a) This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and assigns of the parties hereto; provided, however, that the Borrower may not assign or transfer any of its rights, obligations or interest hereunder or under any other Credit Document without the prior written consent of the Lenders, and provided, further that, although any Lender may transfer, assign or grant participations in its rights hereunder (including any rights to yield protection, taxes and other deductions that such assigning Lender is entitled to pursuant to this Agreement), such Lender shall remain a "Lender" for all purposes hereunder (and may not transfer or assign all or any portion of its Commitments hereunder except as provided in Sections 2.12 and 13.04(b)) and the transferee, assignee or participant, as the case may be, shall not constitute a "Lender" hereunder and provided, further, that no Lender shall transfer or grant any participation under which the participant shall have rights to approve any amendment to or waiver of this Agreement or any other Credit Document except to the extent such amendment or waiver would (i) extend the final scheduled maturity of any Loan or Note or Letter of Credit (unless such Letter of Credit is not extended beyond the Maturity Date (except as provided in Section 3.03)) in which such participant is participating, or reduce the rate or extend the time of payment of interest or Fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof (it being understood that any amendment or modification to the financial definitions in this Agreement or to Section 13.07(a) shall not constitute a reduction in the rate of interest or Fees payable hereunder) or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Default or of a mandatory reduction in the Total Commitment shall not constitute a change in the terms of such participation, and that an increase in any Commitment (or the available portion thereof) or Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof), (ii) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement or (iii) release all or substantially all of the Collateral under all of the Security Documents (except as expressly provided in the Credit Documents) supporting the Loans or Letters of Credit hereunder in which such participant is participating. In the case of any such participation, the participant shall not have any rights under this Agreement or any of the other Credit Documents (the participant's rights against such Lender in respect of such participation to be those set forth in the agreement executed by such Lender in favor of the participant relating thereto), except as provided in this Section 13.04(a). The Borrower agrees that each participant shall be entitled to the benefits of Sections 2.09, 2.10, 3.06 and 5.04 (subject to the requirements and limitations therein, including the requirements under Section 5.04(g) (it being understood that the documentation required under Section 5.04(g) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such participant (A) agrees to be subject to the provisions of Sections 2.11 and 2.12 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 2.09, 3.06 or 5.04, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to

receive a greater payment results from a change in law, rule, regulation, treaty, order, guideline, or directive (or in the interpretation or administration thereof) that occurs after the participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.12 with respect to any participant.

(b) Notwithstanding the foregoing, any Lender (or any Lender together with one or more other Lenders) may (x) assign all or a portion of its Commitments and related outstanding Obligations (or, if the Commitments have terminated, outstanding Obligations) hereunder to (i) (A) any Affiliate of such Lender or (B) to one or more other Lenders or any Affiliate of any such other Lender (provided that any fund that invests in loans and is managed or advised by the same investment advisor of another fund which is a Lender (or by an Affiliate of such investment advisor) shall be treated as an Affiliate of such other Lender for the purposes of this sub-clause (x)(i)(B)) or (ii) in the case of any Lender that is a fund that invests in loans, any other fund that invests in loans and is managed or advised by the same investment advisor of any Lender or by an Affiliate of such investment advisor; provided that no assignment under Section 13.04(b) may be made to any Person that is, or would at such time constitute, a Defaulting Lender, or (y) with the consent of the Borrower (which consent (i) shall not be unreasonably withheld or delayed and shall not be required if any Default is then in existence and (ii) shall be deemed to have been given to any such assignment unless it shall object thereto by written notice to the Administrative Agent within seven Business Days after having received notice thereof), assign all, or if less than all, a portion equal to an amount which shall not be less than \$5,000,000 in the aggregate and in integral multiples of \$1,000,000 thereof for the assigning Lender or assigning Lenders, of such Commitments and related outstanding Obligations (or, if the Commitments have terminated, outstanding Obligations) hereunder to one or more Eligible Transferees (treating any fund that invests in bank loans and any other fund that invests in bank loans and is managed or advised by the same investment advisor of such fund or by an Affiliate of such investment advisor as a single Eligible Transferee), each of which assignees shall become a party to this Agreement as a Lender by execution of an Assignment and Assumption Agreement, provided that (i) at such time, Annex I shall be deemed modified to reflect the Commitments and/or outstanding Loans, as the case may be, of such new Lender and of the existing Lenders, (ii) upon the surrender of the relevant Notes by the assigning Lender, new Notes will be issued, at the Borrower's expense, to such new Lender and to the assigning Lender upon the request of such new Lender or assigning Lender, such new Notes to be in conformity with the requirements of Section 2.05 (with appropriate modifications) to the extent needed to reflect the revised Commitments and/or outstanding Loans, as the case may be, (iii) the consent of the Administrative Agent and, in the case of an assignment of Commitments, each Issuing Lender, shall be required in connection with any such assignment pursuant to clause (y) above (which consent shall not, in any case, be unreasonably withheld or delayed), (iv) the Administrative Agent shall receive at the time of each such assignment, from the assigning or assignee Lender, the payment of a non-refundable assignment fee of \$3,500, which fee may be waived by the Administrative Agent in its discretion, and (v) no such transfer or assignment will be effective until recorded by the Administrative Agent on the Register pursuant to Section 13.15. To the extent of any assignment pursuant to this Section 13.04(b), the assigning Lender shall be relieved of its obligations hereunder with respect to its assigned Commitments and outstanding Loans. To the extent that an assignment of all or any portion of a Lender's Commitments and related outstanding Obligations pursuant to this Section 13.04(b) (other than

an assignment pursuant to Section 2.12) would, at the time of such assignment, result in increased costs under Sections 2.09, 3.06 or 5.04 in excess of those being charged by the respective assigning Lender immediately prior to such assignment, then the Borrower shall not be obligated to pay such increased costs to the extent of such excess (although the Borrower, in accordance with and pursuant to the other provisions of this Agreement, shall be obligated to pay any other increased costs of the type described above resulting from changes after the date of the respective assignment). In no event will any assignments or participations be made to the Borrower or any of its Affiliates or Subsidiaries.

- (c) Nothing in this Agreement shall prevent or prohibit any Lender from pledging its Loans and Notes hereunder to a Federal Reserve Bank or any central bank having jurisdiction over such Lender in support of borrowings made by such Lender from such Federal Reserve Bank or central bank and, with prior notification to the Administrative Agent (but without the consent of the Administrative Agent or the Borrower), any Lender which is a fund may pledge all or any portion of its Loans and Notes to its trustee or to a collateral agent providing credit or credit support to such Lender in support of its obligations to such trustee, such collateral agent or a holder of such obligations, as the case may be. No pledge pursuant to this clause (c) shall release the transferor Lender from any of its obligations hereunder.
- (d) No assignment will be made to any Defaulting Lender or any of their respective subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause.
- (e) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment will be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable <u>pro rata</u> share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Lender and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full <u>pro rata</u> share of all Loans and participations in Letters of Credit in accordance with its Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder becomes effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest will be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

13.05 No Waiver; Remedies Cumulative. No failure or delay on the part of the Administrative Agent, the Pari Passu Collateral Agent, any Issuing Lender or any Lender in exercising any right, power or privilege hereunder or under any other Credit Document and no course of dealing between the Borrower or any other Credit Party and the Administrative Agent, the Pari Passu Collateral Agent, any Issuing Lender or any Lender shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or

under any other Credit Document preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder or thereunder. The rights, powers and remedies herein or in any other Credit Document expressly provided are cumulative and not exclusive of any rights, powers or remedies which the Administrative Agent, the Pari Passu Collateral Agent, any Issuing Lender or any Lender would otherwise have. No notice to or demand on any Credit Party in any case shall entitle any Credit Party to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Administrative Agent, the Pari Passu Collateral Agent, any Issuing Lender or any Lender to any other or further action in any circumstances without notice or demand.

- 13.06 <u>Payments Pro Rata</u>. (a) Except as otherwise provided in this Agreement, the Administrative Agent agrees that promptly after its receipt of each payment from or on behalf of the Borrower in respect of any Obligations hereunder, the Administrative Agent shall distribute such payment to the Lenders entitled thereto (other than any Lender that has consented in writing to waive its <u>pro rata</u> share of any such payment) <u>pro rata</u> based upon their respective shares, if any, of the Obligations with respect to which such payment was received.
- (b) Each of the Lenders agrees that, if it should receive any amount hereunder (whether by voluntary payment, by realization upon security, by the exercise of the right of setoff or banker's Lien, by counterclaim or cross action, by the enforcement of any right under the Credit Documents, or otherwise), which is applicable to the payment of the principal of, or interest on, the Loans, Unpaid Drawings, or Fees, of a sum which with respect to the related sum or sums received by other Lenders is in a greater proportion than the total of such Obligation then owed and due to such Lender bears to the total of such Obligation then owed and due to all of the Lenders immediately prior to such receipt, then such Lender receiving such excess payment shall purchase for cash without recourse or warranty from the other Lenders an interest in the Obligations of the respective Credit Party to such Lenders in such amount as shall result in a proportional participation by all the Lenders in such amount; provided that (x) if all or any portion of such excess amount is thereafter recovered from such Lenders, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest and (y) any payment received in consideration for an assignment of participation permitted pursuant to Section 13.04 to a Person other than the Borrower or an Affiliate thereof shall not be subject to this 13.06(b).
- (c) Notwithstanding anything to the contrary contained herein, the provisions of the preceding Sections 13.06(a) and (b) shall be subject to the express provisions of this Agreement which require, or permit, differing payments to be made to Non-Defaulting Lenders as opposed to Defaulting Lenders.
- 13.07 <u>Calculations</u>; <u>Computations</u>. (a) Subject to the provisions of Section 1.02(b), the financial statements to be furnished to the Lenders pursuant hereto shall be made and prepared in accordance with GAAP in the United States consistently applied throughout the periods involved (except as set forth in the notes thereto or as otherwise disclosed in writing by the Borrower to the Lenders to the extent, in each case, permitted by the terms of this Agreement).

(b) All computations of interest, Commitment Fees and other Fees hereunder shall be made on the basis of a year of 360 days (except for computations of interest with respect to Base Rate Loans when the Base Rate is determined by reference to clause (i) of the definition thereof, which shall be calculated on the basis of a year of 365 or 366 days) for the actual number of days (including the first day but excluding the last day; except that in the case of Letter of Credit Fees and Facing Fees, the last day shall be included) occurring in the period for which such interest, Commitment Fees or other Fees are payable.

13.08 GOVERNING LAW; SUBMISSION TO JURISDICTION; VENUE; WAIVER OF JURY TRIAL. (a) THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL, EXCEPT AS OTHERWISE PROVIDED IN CERTAIN OF THE COLLATERAL RIG MORTGAGES AND OTHER SECURITY DOCUMENTS AS DETERMINED BY THE ADMINISTRATIVE AGENT, BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT, EACH PARTY HEREUNDER HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HEREUNDER HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENTS BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER, EACH OF THE PARTIES HEREUNDER FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 13.03, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH OF THE PARTIES HEREUNDER HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER CREDIT DOCUMENT THAT SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT, ANY LENDER OR THE HOLDER OF ANY NOTE TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY PARTY HEREUNDER IN ANY OTHER JURISDICTION.

- (b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER CREDIT DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- (d) The Borrower acknowledges that the majority of its officers are based in the Houston office located at the address specified opposite its signature below.
- 13.09 <u>Counterparts</u>. (a) <u>Counterparts; Integration</u>. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Credit Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.
- (b) <u>Electronic Execution of Assignments</u>. The words "execution," "signed," "signature," and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.
- 13.10 <u>Effectiveness</u>. Except as provided in <u>Section 7.01</u>, this Agreement shall become effective on the date on which it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto.
- 13.11 <u>Headings Descriptive</u>. The headings of the several sections and subsections of this Agreement are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

- 13.12 <u>Amendment or Waiver; etc.</u> (a) Neither this Agreement nor any other Credit Document nor any terms hereof or thereof may be changed, waived, discharged or terminated unless such change, waiver, discharge or termination is in writing signed by the respective Credit Parties party hereto or thereto and the Required Lenders, <u>provided</u> that:
- (X) additional parties may be added to (and annexes may be modified to reflect such additions), and Subsidiaries of the Borrower may be released from, the Subsidiary Guaranty and the Security Documents in accordance with the provisions hereof and thereof without the consent of the other Credit Parties party thereto or the Required Lenders;
- (Y) no such change, waiver, discharge or termination shall, without the consent of each Lender (other than a Defaulting Lender other than in the case of clause (i) and (v) below) (with Obligations being directly and negatively affected in the case of the following clauses (i) and (v), to the extent (in the case of the following clause (v)) that any such Lender would be required to make a Loan in excess of its <u>pro rata portion</u> provided for in this Agreement or a payment under Section 3.04(c) in respect of a participation in excess of its Percentage or would receive a payment or prepayment of Loans, a payment of obligations under Section 3.04(d) or a commitment reduction that (in any case) is less than its <u>pro rata portion</u> provided for in this Agreement, in each case, as a result of any such amendment, modification or waiver referred to in the following clause (v)):
 - (i) extend the final scheduled maturity of any Loan or Note held by such Lender or extend the stated expiration date of any Letter of Credit issued by such Lender beyond the Maturity Date (except as provided in Section 3.03), or reduce the rate or extend the time of payment of interest thereon, or reduce the amount, or extend the time of payment, of any Fees thereon (except in connection with the waiver of applicability of any post-default increase in interest rates), or extend the timing of repayment of any such Loan, or reduce the principal amount of any such Loan thereof (it being understood that any amendment or modification to the financial definitions in this Agreement or to Section 13.07(a) shall not constitute a reduction in the rate of interest or the amount of Fees for the purposes of this clause (i)), or increase the Commitment of any Lender,
 - (ii) release any Collateral Rig Mortgage or all or substantially all of the Collateral (except as expressly provided in the Credit Documents) under the Security Documents or permit any Collateral Disposition under clause (i) of the definition thereof,
 - (iii) amend, modify or waive any provision of this Section 13.12 (except for technical amendments with respect to additional extensions of credit pursuant to this Agreement which afford the protections to such additional extensions of credit of the type provided to the Commitments on the Effective Date) or any other Section which expressly requires the consent of all Lenders or all Lenders directly and negatively affected thereby,
 - (iv) reduce the percentage specified in the definition of Required Lenders,
 - (v) amend, modify or waive (I) Section 2.06, (II) the provisions of Section 3.04(c) to the extent relating to the obligation of a Participant to make a payment in an amount

equal to its Percentage or (III) any other provision in this Agreement to the extent providing for payments or prepayments of Loans, payments of obligations under Section 3.04(d) or reductions in Commitments, in each case, to be applied <u>pro rata</u> among the Lenders entitled to such payments or prepayments of Loans, payments of obligations under Section 3.04 or reductions in Commitments (it being understood that the waiver of any mandatory commitment reduction or any mandatory prepayment of Loans by the Required Lenders shall not constitute an amendment, modification or waiver for purposes of this clause (v)),

- (vi) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement, or
- (vii) substitute, replace or release any Subsidiary Guarantor from a Subsidiary Guaranty; and
- (Z) no such change, waiver, discharge or termination shall (1) increase the Commitments of any Lender over the amount thereof then in effect without the consent of such Lender (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default or of a mandatory reduction in the Total Commitment shall not constitute an increase of the Commitment of any Lender, and that an increase in the available portion of any Commitment of any Lender shall not constitute an increase of the Commitment of such Lender), (2) without the consent of each Issuing Lender, amend, modify or waive any provision of Section 3 or alter its rights or obligations with respect to Letters of Credit, or (3) without the consent of the Administrative Agent, amend, modify or waive any provision of Section 12 or any other provision as same relates to the rights or obligations of the Administrative Agent.
- (b) If, in connection with any proposed change, waiver, discharge or termination of any of the provisions of this Agreement as contemplated by clauses (i) through (vii), inclusive, of Section 13.12(a), the consent of the Required Lenders is obtained but the consent of one or more of such other Lenders whose consent is required is not obtained, then the Borrower shall have the right to replace each such non-consenting Lender or Lenders with one or more Replacement Lenders pursuant to Section 2.12 so long as at the time of such replacement, each such Replacement Lender consents to the proposed change, waiver, discharge or termination, <u>provided</u> that in any event the Borrower shall not have the right to replace a Lender, terminate its Commitments or repay its Loans solely as a result of the exercise of such Lender's rights (and the withholding of any required consent by such Lender) pursuant to Section 13.12(a)(Z)(1).
- (c) Anything herein to the contrary notwithstanding, during such period as a Lender is a Defaulting Lender, to the fullest extent permitted by applicable law, such Lender will not be entitled to vote in respect of amendments and waivers hereunder and the Commitment and the outstanding Loans or other extensions of credit of such Lender hereunder will not be taken into account in determining whether the Required Lenders or all of the Lenders, as required, have approved any such amendment or waiver (and the definition of "Required Lenders" will automatically be deemed modified accordingly for the duration of such period); <u>provided</u>, that any such amendment or waiver that would increase or extend the term of the Commitment of such Defaulting Lender, extend the date fixed for the payment of principal or interest owing to

such Defaulting Lender hereunder, reduce the principal amount of any obligation owing to such Defaulting Lender, reduce the amount of or the rate or amount of interest on any amount owing to such Defaulting Lender or of any fee payable to such Defaulting Lender hereunder, or alter the terms of this proviso, will require the consent of such Defaulting Lender.

- 13.13 <u>Survival</u>. All indemnities set forth herein including, without limitation, in Sections 2.09, 2.10, 3.06, 5.04, 12.06 and 13.01 shall survive the execution, delivery and termination of this Agreement and the Notes and the making and repayment of the Obligations.
- 13.14 <u>Domicile of Loans</u>. Each Lender may transfer and carry its Loans at, to or for the account of any office, Subsidiary or Affiliate of such Lender. Notwithstanding anything to the contrary contained herein, to the extent that a transfer of Loans pursuant to this Section 13.14 would, at the time of such transfer, result in increased costs under Section 2.09, 2.10, 3.06 or 5.04 in excess of those being charged by the respective Lender immediately prior to such transfer, then the Borrower shall not be obligated to pay such increased costs to the extent of such excess (although the Borrower shall be obligated to pay any other increased costs of the type described above resulting from changes after the date of the respective transfer).
- 13.15 Register. The Borrower hereby designates the Administrative Agent to serve as its non-fiduciary agent, solely for purposes of this Section 13.15, to maintain a register (the "Register") on which it will record the Commitments from time to time of each of the Lenders, the Loans made by each of the Lenders, the principal amount (and stated interest) of such Loans, and each repayment in respect of the principal amount of the Loans of each Lender. Failure to make any such recordation, or any error in such recordation, shall not affect the Borrower's obligations in respect of such Loans. With respect to any Lender, the transfer of the Commitments of such Lender and the rights to the principal of, and interest on, any Loan made pursuant to such Commitments shall not be effective until such transfer is recorded on the Register maintained by the Administrative Agent with respect to ownership of such Commitments and Loans and prior to such recordation all amounts owing to the transferor with respect to such Commitments and Loans shall remain owing to the transferor. The registration of assignment or transfer of all or part of any Commitments and Loans shall be recorded by the Administrative Agent on the Register only upon the acceptance by the Administrative Agent of a properly executed and delivered Assignment and Assumption Agreement pursuant to Section 13.04 (b). Coincident with the delivery of such an Assignment and Assumption Agreement to the Administrative Agent for acceptance and registration of assignment or transfer of all or part of a Loan, or as soon thereafter as practicable, the assigning or transferor Lender shall surrender the Note (if any) evidencing such Loan, and thereupon one or more new Notes in the same aggregate principal amount shall be issued to the assigning or transferor Lender and/or the new Lender at the request of any such Lender.
- 13.16 <u>Confidentiality</u>. Each of the Administrative Agent, the Lenders and the Issuing Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates' respective managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep

such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any action or proceeding relating to this Agreement or any other Credit Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective party (or its managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrower and its obligations, this Agreement or payments hereunder, (iii) any rating agency, or (iv) the CUSIP Service Bureau or any similar organization, (g) with the consent of the Borrower or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, the Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, "Information" means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries, provided that, in the case of information received from the Borrower or any of its Subsidiaries after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

13.17 Intercreditor Agreement. Each of the Credit Parties, the Administrative Agent, the Issuing Lenders and the Lenders (i) consents to and ratifies the execution by the Administrative Agent of the Intercreditor Agreement and any amendments or supplements expressly contemplated thereby, (ii) hereby agrees that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement and (iii) acknowledges that it has received a copy of the Intercreditor Agreement and that the exercise of certain of the Administrative Agent's rights and remedies hereunder may be subject to, and restricted by, the provisions of the Intercreditor Agreement. Each of the Issuing Lenders and the Lenders hereby directs the Administrative Agent to appoint the Pari Passu Collateral Agent as its mortgagee trustee to receive, hold, administer and enforce the Collateral Rig Mortgages covering the Collateral Rigs, as contemplated under Section 3.1(c) of the Intercreditor Agreement. NOTWITHSTANDING ANY OTHER PROVISION CONTAINED IN THIS AGREEMENT, IN THE EVENT OF ANY CONFLICT OR INCONSISTENCY BETWEEN THE PROVISIONS OF THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT AND THE INTERCREDITOR AGREEMENT, THE INTERCREDITOR AGREEMENT SHALL CONTROL.

- 13.18 <u>Currency Conversion Shortfall</u>. (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under any other Credit Document in Dollars into another currency, the rate of exchange used shall be that at which, in accordance with normal, reasonable banking procedures, the Administrative Agent could purchase Dollars with such other currency in New York City on the Business Day preceding that on which final judgment is given.
- (b) The Obligations of the Credit Parties in respect of any sum due to the Administrative Agent, any Issuing Lender or any Lender hereunder or under any other Credit Document shall, notwithstanding any judgment in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in such currency, the Administrative Agent may, in accordance with normal, reasonable banking procedures, purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due, in Dollars, the Borrower agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such Obligation was owing against such loss. If the amount of Dollars so purchased is greater than the sum originally due, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable law).
- 13.19 <u>Releases</u>. Subject to the Intercreditor Agreement, without further written consent or authorization from any Secured Creditor, the Administrative Agent or Pari Passu Collateral Agent, as applicable, may (a) execute any documents or instruments necessary in connection with an Asset Disposition permitted by this Agreement, (b) release any Lien encumbering any item of Collateral that is the subject of such Asset Disposition permitted by this Agreement or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 13.12) have otherwise consented or (c) release any Subsidiary Guarantor that is the subject of such Asset Disposition permitted by this Agreement from its obligations under the Credit Documents or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 13.12) have otherwise consented.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Agreement as of the date first above written.

Address:

Pacific Drilling S.A. 37 rue d'anvers L-1130 Luxembourg Attention: John Boots

Email: j.boots@pacificdrilling.com

Facsimile: 352 278 58 140 Telephone: 352 278 58 139

with a copy to:

Pacific Drilling Services, Inc. 3050 Post Oak Blvd., Suite 1500

Houston, Texas 77056 Attention: Treasurer

Email: jboots@pacificdrilling.com

Facsimile: (713) 583-5777 Telephone: (713) 334-6662

PACIFIC DRILLING S.A.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: Director

[Signature Page to Revolving Credit Agreement]

CITIBANK, N.A., as Administrative Agent, Issuing Lender and Lender

By: /s/ Robert Malleck

Name: Robert Malleck Title: Managing Director

[Signature Page to Revolving Credit Agreement]

ABM AMRO CAPITAL USA LLC , as Lender

By: /s/ Francis Birkeland

Name: Francis Birkeland Title: Managing Director

For institutions requiring a second signature block:

By: /s/ Urvashi Zutshi

Name: Urvashi Zutshi Title: Managing Director

[Signature Page to Revolving Credit Agreement]

CREDIT AGRICOLE CIB, as Lender

By: /s/ Jerome Duval

Name: Jerome Duval Title: Attorney-In-Fact

For institutions requiring a second signature block:

By: /s/ Michael Choina

Name: Michael Choina Title: Attorney-In-Fact

Е	y: /s/ Richard Ennis Name: Richard Ennis Title: Managing Director
F	or institutions requiring a second signature block:
Е	y:Name:

ING CAPITAL LLC, as Lender

NIBC BANK N.V., as Lender

By: /s/ Saskia Hovers

Name: Saskia Hovers
Title: Managing Director

For institutions requiring a second signature block:

By: /s/ Rob ten Heggeler

Name: Rob ten Heggeler Title: Managing Director

$\begin{center} \textbf{NORDEA BANK FINLAND PLC} \ , as \ Lender \end{center}$

By: /s/ Henning Lyche Christiansen

Name: Henning Lyche Christiansen

Title: First Vice President

For institutions requiring a second signature block:

By: /s/ Martin Lunder

Name: Martin Lunder Title: Senior Vice President

SKANDINAVISKA ENSKILDA BANKEN AB , as

Lender

By: /s/ Gisle Bendiksen

Name: Gisle Bendiksen

Title:

For institutions requiring a second signature block:

By: /s/ Per Olav Bucher-Johannessen

Name: Per Olav Bucher-Johannessen

Title:

By: /s/ Stephen Hackett Name: Stephen Hackett Title: Regional Head, Structured Finance For institutions requiring a second signature block:

Name: Title:

By:

STANDARD CHARTERED BANK , as Lender

By: /s/ John Frazell
Name: John Frazell
Title: Director
For institutions requiring a second signature block:
By:
Name:
Title:

THE BANK OF NOVA SCOTIA , as Lender

By: /s/ Robert Ehudin Name: Robert Ehudin Title: Authorized Signatory For institutions requiring a second signature block: By: Name: Title:

 $\ensuremath{\mathbf{GOLDMAN}}$ $\ensuremath{\mathbf{SACHS}}$ $\ensuremath{\mathbf{BANK}}$ $\ensuremath{\mathbf{USA}}$, as Lender

DEUTSCHE BANK AG NEW YORK BRANCH , as Lender

By: /s/ Michael Getz

Name: Michael Getz Title: Vice President

For institutions requiring a second signature block:

By: /s/ Marcus M. Tarkington

Name: Marcus M. Tarkington

Title: Director

By: /s/ Ann E. Sutton Name: Ann E. Sutton Title: Director
For institutions requiring a second signature block:
By: Name: Title:

 $\boldsymbol{BARCLAYS}\;\boldsymbol{BANK}\;\boldsymbol{PLC}$, as Lender

CREDIT INDUSTRIEL ET COMMERCIAL , as

Lender

By: /s/ Andrew McKuin

Name: Andrew McKuin Title: Vice President

For institutions requiring a second signature block:

By: /s/ Alex Aupoix

Name: Alex Aupoix Title: Managing Director

Annex I

COMMITMENTS

<u>Lender</u>	Commitment
Citibank, N.A.	\$ 45,000,000
ABN AMRO Capital USA LLC	\$ 40,000,000
Credit Agricole CIB	\$ 40,000,000
ING Capital LLC	\$ 40,000,000
NIBC Bank N.V.	\$ 40,000,000
Nordea Bank Finland Plc	\$ 40,000,000
Skandinaviska Enskilda Banken AB	\$ 40,000,000
Standard Chartered Bank	\$ 40,000,000
The Bank of Nova Scotia	\$ 40,000,000
Goldman Sachs Bank USA	\$ 38,000,000
Deutsche Bank AG New York Branch	\$ 38,000,000
Barclays Bank PLC	\$ 38,000,000
Credit Industriel et Commercial	\$ 21,000,000
TOTAL:	\$500,000,000

SCHEDULE A

APPROVED FLAG STATES

Republic of Liberia Panama The Republic of the Marshall Islands

SCHEDULE B

SUBSIDIARY GUARANTORS

- Pacific Drillship S.àr.l
 Pacific Drilling Limited
 Pacific Drilling, Inc.
 Pacific Bora Ltd.

- Pacific Mistral Ltd.
- Pacific Santa Ana Ltd.
- Pacific Santa Ana S.àr.1
- Pacific International Drilling West Africa Limited
- Pacific Scirocco Ltd.

SCHEDULE C

PLEDGE AGREEMENTS, EQUITY-OWNING SUBSIDIARIES

Section A

- 1. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Drilling Limited, as pledgor, and Citibank, N.A., as the Pari Passu Collateral Agent (re: pledge of shares of common stock of Pacific Mistral Ltd.)
- 2. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Drilling Limited, as pledgor, and Citibank, N.A., as the Pari Passu Collateral Agent (re: pledge of shares of common stock of Pacific Bora Ltd.)
- 3. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Drilling Limited and Pacific International Drilling West Africa Limited, as pledgors, and Citibank, N.A., as the Pari Passu Collateral Agent (re: pledge of shares of common stock of Pacific Scirroco Ltd.)
- 4. Share Pledge Agreement, dated as of June 3, 2013, by Pacific Santa Ana Ltd., as pledgor, Citibank, N.A., as the Pari Passu Collateral Agent, and Pacific Santa Ana S.àr.l (re: pledge of share capital of Pacific Santa Ana S.àr.l)

Section B

- Pacific Drilling Limited
- Pacific Santa Ana Ltd.
- · Pacific International Drilling West Africa Limited

SCHEDULE D

EXISTING LETTERS OF CREDIT

Letter of Credit No. 63658138, issued by Citibank, N.A., New York, NY, on July 13, 2011, on behalf of PACIFIC DRILLING (GIBRALTAR) LIMITED, to, Citibank Nigeria Limited, as beneficiary, in a stated amount equal to Naira 14,884,342,426.20.

Letter of Credit No. 63659277, issued by Citibank N.A., New York, NY, on November 30, 2011, on behalf of PACIFIC DRILLING (GIBRALTAR) LIMITED, to Citibank Nigeria Limited, as beneficiary, in a stated amount equal to Naira 5,548,564,451.88.

Letter of Credit No. 63660580, issued by Citibank N.A., New York, NY, on April 20, 2012, on behalf of PACIFIC DRILLING (GIBRALTAR) LIMITED, to Standard Charter Bank, as beneficiary, in a stated amount equal to Naira 11,732,273,470.82.

PLANS

PDSI 401K Plan

UCC-1 FILING OFFICES

- Recorder of Deeds, District of Columbia
 - o Pacific Drillship S.àr.l
 - o Pacific Drilling Limited
 - o Pacific Bora Ltd.
 - o Pacific Mistral Ltd.
 - o Pacific Santa Ana Ltd.
 - o Pacific Santa Ana S.àr.1
 - o Pacific International Drilling West Africa Limited
 - o Pacific Scirocco Ltd.
- Secretary of State, Texas
 - o Pacific Drillship S.àr.l
 - o Pacific Drilling Limited
 - o Pacific Bora Ltd.
 - o Pacific Mistral Ltd.
 - o Pacific Santa Ana Ltd.
 - o Pacific Santa Ana S.àr.l
 - o Pacific International Drilling West Africa Limited
 - o Pacific Scirocco Ltd.
- Secretary of State, Delaware
 - o Pacific Drilling, Inc.

CAPITAL STOCK OF SUBSIDIARY GUARANTORS

Legal Name	Owner	Percentage of Ownership	Jurisdiction of Organization
Pacific Drillship S.àr.l	Pacific Drilling	100%	Luxembourg
	(Gibraltar) Limited		
Pacific Drilling Limited	Pacific Drilling	100%	Liberia
	(Gibraltar) Limited		
Pacific Drilling, Inc.	Pacific Drilling	100%	Delaware
-	Manpower S.àr.l		
Pacific Bora Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Mistral	Pacific Drilling Limited	100%	Liberia
Pacific Santa Ana Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Santa Ana S.àr.l	Pacific Santa Ana Ltd.	100%	Luxembourg
Pacific	Pacific Drilling	90%	Nigeria
International	Operations Limited		
Drilling West			
Africa Limited	Nigerian 3 rd party	10%	
Pacific Scirocco Ltd.	Pacific Drilling Limited	90%	Liberia
	Pacific International	10%	
	Drilling West Africa		
	Limited		

SUBSIDIARIES OF THE BORROWER

Legal Name	Owner	Percentage of Ownership	Jurisdiction of Organization
Pacific Drilling (Gibraltar) Limited	Pacific Drilling S.A.	100%	Gibraltar
Pacific Drillship (Gibraltar)	Pacific Drilling S.A.	100%	Gibraltar
Limited		_	
Pacific Drilling Holding (Gibraltar)	Pacific Drilling S.A.	100%	Gibraltar
Limited			
Pacific Drilling Manpower S.àr.l	Pacific Drilling	100%	Luxembourg
	(Gibraltar) Limited		
Pacific Drillship S.àr.l	Pacific Drilling	100%	Luxembourg
	(Gibraltar) Limited	_	
Pacific Drilling Limited	Pacific Drilling	100%	Liberia
	(Gibraltar) Limited	_	
Pacific Sharav S.àr.l	Pacific Drilling	100%	Luxembourg
	(Gibraltar) Limited		
Pacific Drilling VII Limited	Pacific Drilling	100%	BVI
	(Gibraltar) Limited		
Pacific Drilling Administrator	Pacific Drilling	100%	BVI
Limited	(Gibraltar) Limited		
Pacific Drilling V Limited	Pacific Drillship	100%	BVI
	(Gibraltar) Limited		
Pacific Drilling Manpower, Inc.	Pacific Drilling Holding	100%	Delaware
	(Gibraltar) Limited		
Pacific Drilling VIII Limited	Pacific Drilling Holding	100%	BVI
	(Gibraltar) Limited		
Pacific Drilling, Inc.	Pacific Drilling	100%	Delaware
	Manpower S.àr.1		
Pacific Bora Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Mistral Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Santa Ana Ltd.	Pacific Drilling Limited	100%	Liberia
Pacific Drilling	Pacific Drilling Limited	100%	BVI
Operations Limited		_	
Pacific Drilling	Pacific Sharav S.àr.1	100%	Delaware
Operations, Inc.			
Pacific Santa Ana S.àr.l	Pacific Santa Ana Ltd.	100%	Luxembourg
Pacific International	Pacific Drilling	90%	Nigeria
Drilling West Africa	Operations Limited		
Limited	Nigerian 3 rd party	10%	

Pacific Drilling South America 1 Limited	Pacific Drilling Operations Limited	100%	BVI
Pacific Drilling South America 2 Limited	Pacific Drilling Operations Limited	100%	BVI
Pacific Drilling N.V.	Pacific Drilling Operations Limited	100%	Neth Antilles
Pacific Drilling Services Inc.	Pacific Drilling Operations Limited	100%	Delaware
Pacific Deepwater Construction Limited	Pacific Drilling Operations Limited	100%	BVI
Pacific Drilling Services Pte. Ltd.	Pacific Drilling Operations Limited	100%	Singapore
Pacific Drilling International, LLC	Pacific Drilling Operations Limited	100%	Delaware
Pacific Drilling Manpower Ltd.	Pacific Drilling Operations Limited	100%	BVI
Pacific Scirocco Ltd.	Pacific Drilling Limited	90%	Liberia
	Pacific International Drilling West Africa Limited	10%	
Pacific Drilling do Brasil Investimentos Ltda.	Pacific Drilling South America 1 Limited	99.9%	Brazil
	Pacific Drilling South America 2 Limited	.01%	
Pacific Drilling do Brasil Servicos de Perfuracao	Pacific Drilling South America 1 Limited	99.9%	Brazil
Ltda	Pacific Drilling South America 2 Limited	.01%	
Pacific Drilling	Pacific Drilling N.V.	99%	Netherlands
Netherlands Cooperatief	Pacific Drilling Operations Limited	1%	
Pacific Drilling International Ltd.	Pacific Drilling International, LLC	100%	BVI

LEGAL NAME, TYPE OF ORGANIZATION, JURISDICTION

	_		Jurisdiction of	
Name	Type	Domestic	Organization	Organization ID
Pacific Drilling S.A.	Societe anonyme	-	Luxembourg	R.C.S. Luxembourg
				B. 159658
Pacific Drillship S.àr.l	Societe a	-	Luxembourg	R.C.S. Luxembourg
	responsabilite limitee			B.162253
Pacific Drilling Limited	Liberian Nonresident	-	Liberia	C-108615
_	Domestic			
	Corporation			
Pacific Drilling, Inc.	Corporation	Yes	Delaware	4564073
Pacific Bora Ltd.	Liberian Nonresident	-	Liberia	C-109238
	Domestic			
	Corporation			
Pacific Mistral Ltd.	Liberian Nonresident	-	Liberia	C-110676
	Domestic			
	Corporation			
Pacific Santa Ana Ltd.	Liberian Nonresident	-	Liberia	C-110677
	Domestic			
	Corporation			
Pacific Santa Ana S.àr.1	Societe a	-	Luxembourg	R.C.S. Luxembourg
	responsabilite limitee		_	B.167700
Pacific International	Nigerian	-	Nigeria	RC 899457
Drilling West Africa	Corporation			
Limited	•			
Pacific Scirocco Ltd.	Liberian Nonresident	_	Liberia	C- 110671
	Domestic			
	Corporation			

INSURANCE

- 1. <u>Risks insured and amount of cover</u>. The Borrower shall, and shall cause each of the Collateral Vessel-Owning Subsidiaries to, at all times and at their own cost and expense, cause to be carried and maintained, insurance on its Collateral Rig and keep its Collateral Rig insured in the name of the Borrower or the relevant Collateral Vessel-Owning Subsidiary and any other Persons with an insurable interest therein on terms and in forms which are customary and reflect the prudent practice of other responsible and experienced persons of similar size and established reputation engaged in the same or similar operation and within the same geographic location as the Collateral Rigs, against:
 - (a) fire and usual marine risks, Hull and Machinery, Hull Interest (or Increased Value), ACOC Insurance and War Risks (including terrorism, piracy, and confiscation, per common conditions and exclusions) on an agreed value basis of at least equal to \$650,000,000 and Loss of Hire on a 45/90/90 basis per Collateral Rig. In addition, the Hull and Machinery insured value of each Collateral Rig shall, at all times be equal to or greater than 60% of the insured value of such Collateral Rig, and the aggregate Hull and Machinery insured value of all Collateral Rigs shall be equal to or greater than 60% of the aggregate insured values of such Collateral Rigs, while the remaining cover is to be taken out by way of Hull Interest Insurance (i.e. Increased Value) and ACOC Insurance;
 - (b) protection and indemnity risks (as defined below) in respect of a Collateral Vessel's full tonnage, and insurance against liability for pollution by the Collateral Rig in an amount equal to the highest level of cover from time to time available under basic protection by the entry of such Collateral Rig in a protection and indemnity association or club belonging to the International Group of P&I Clubs or insurance companies providing equivalent protection;
 - (c) all other risks respecting a vessel which are customarily insured against by leading operators of vessels of the same age and type as the Collateral Rigs in accordance with then current industry practice and taking account of the areas in which the Collateral Rigs may operate from time to time, with named windstorm coverage exclusions while a Collateral Rig is operating in the Gulf of Mexico; and
 - (d) placed by either the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties (as defined in the Intercreditor Agreement), at the expense of the Borrower, or placed by the Borrower or the relevant Collateral Vessel-Owning Subsidiary for the benefit of the Lenders, mortgagee's interest insurance ("MII") and mortgagee's additional perils (pollution) insurance ("MAPI"), on conditions acceptable to the Administrative Agent in an amount of \$2,400,000,000, and pursuant to the Intercreditor Agreement, the Pari Passu Collateral Agent has agreed to obtain and maintain the same, on behalf of the Pari Passu

Secured Parties, if such MII and MAPI is not included in the Borrower's or the relevant Collateral Vessel-Owning Subsidiary's general marine package;

<u>provided</u> that the Borrower or the relevant Collateral Vessel-Owning Subsidiary shall not be required to procure or maintain any insurance otherwise required to be procured or maintained under this clause 1, if such insurance is not commercially available in the commercial insurance market.

- 2. <u>Port risk cover</u>. While a Collateral Rig is laid up, port risk insurance may be taken out on the Collateral Rig by the Borrower or the relevant Collateral Vessel-Owning Subsidiary instead of the aforesaid hull insurance, on normal market terms, subject to the approval of the Administrative Agent not to be unreasonably withheld or delayed.
- 3. <u>Terms of cover</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, procure that the insurance policies for the Collateral Rigs shall:
 - (a) be effected through the owner's approved broker (the "Owner's Insurance Broker") and reputable independent insurance companies and/or underwriters (including mutual insurance schemes and /or captive insurance schemes) in Europe, North America, the Far East and other established insurance markets except that the insurances against protection and indemnity risks may be effected by the entry of the Collateral Rigs with protection and indemnity associations which are members of the IGA or, if the IGA has disbanded and there is no successor or replacement body of associations, other leading protection and indemnity associations and the insurances against war risks may be effected by the entry of the Collateral Rig with leading war risks associations;
 - (b) provide that all amounts payable thereunder shall be payable in Dollars or any other currency approved by the Administrative Agent;
 - (c) in all other respects be in a form and on terms customary in the insurance markets in which the cover is placed and/or as otherwise approved by the Administrative Agent (such approval not to be unreasonably withheld or delayed).
- 4. Endorsement of the Pari Passu Collateral Agent's interests. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, procure that all policies, binders, cover notes or other instruments of the insurances referred to in clause (1.a.) above shall be taken out in the name of the Borrower and/or Collateral Vessel-Owning Subsidiaries, with the Pari Passu Collateral Agent as an additional insured (without liability for premiums), as their respective interests may appear, and shall incorporate a loss payable clause naming the Pari Passu Collateral Agent as loss payee prepared in compliance with the terms of the Assignment of Insurance Proceeds.
- 5. <u>Letters of undertaking</u>; <u>Owner's Insurance Broker Report</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, procure that the Owner's Insurance Broker and any protection and indemnity or war risks association in which the Collateral Rigs may from time to time be entered shall deliver to the Pari Passu Collateral Agent a letter or letters of undertaking in such form as the Administrative Agent may reasonably require having regard to the then current market practice and the practices prescribed by the IGA or any successor

association or body and/or the London Market Brokers' Committee and/or any other professional association of which an Owner's Insurance Broker is a member. The Owner's Insurance Broker shall deliver to the Pari Passu Collateral Agent its broker's report confirming that the insurance requirements set forth in this Schedule 8.21 have been complied with and are sufficient to protect the interests of the Pari Passu Collateral Agent.

- 6. <u>Deposit and production of insurance documents</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, procure that:
 - (a) Copies of all original slips, cover notes, policies, certificates of entry and other instruments of insurance issued from time to time in respect of the insurance required herein which are effected through the Owner's Insurance Broker shall forthwith be deposited with such Owner's Insurance Broker and shall thereafter be held by such Owner's Insurance Broker to the order of the Administrative Agent upon and subject to such terms as the Administrative Agent shall reasonably require having regard to the then current market practice;
 - (b) that, as soon as reasonably practicable upon the Administrative Agent's request therefor, certified copies of the instruments of insurance referred to in paragraph (a) shall be produced to the Administrative Agent by the Owner's Insurance Broker;
 - (c) that, forthwith upon the Administrative Agent's request therefor, certified copies of all certificates of entry and policies relating to the Collateral Rigs' entry with any protection and indemnity association or war risks association shall be produced to the Administrative Agent by such protection and indemnity and/or war risks association and/or the Owner's Insurance Broker (as appropriate).
- 7. <u>Payment of premiums and calls</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, punctually pay all premiums, calls, contributions or other sums payable in respect of the insurance required herein and shall produce to the Administrative Agent all relevant receipts or other evidence of payment when so required by the Administrative Agent.
- 8. Waiver of broker's lien. Where any of the insurances effected through the Owner's Insurance Broker form part of a fleet cover and such Owner's Insurance Broker is or would be entitled to exercise rights of off-set or cancellation in relation to claims under the insurances for non-payment of premiums in respect of other vessels covered by the same insurances, the Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, procure (having regard to then current market practice including the practice prescribed by the London Market Brokers' Committee and/or any other professional association of which the Owner's Insurance Broker is a member) that such Owner's Insurance Broker shall undertake to the Pari Passu Collateral Agent:
 - (a) not to exercise against the policy or against any claims in respect of the Collateral Rigs any lien or right of off-set for unpaid premiums in respect of vessels other than the Collateral Rigs covered under such fleet cover or for unpaid premiums in respect of any other such policies of insurance;
 - (b) not to cancel the insurance by reason of the non-payment of premiums for vessels covered by such fleet cover;

or, in lieu of the undertakings referred to in clauses (a) and (b) of this paragraph 2, to issue a separate policy of insurance in respect of the Collateral Rig as and when the Administrative Agent may reasonably so require.

- 9. <u>Renewal of Insurances</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, renew the insurances (or relevant part thereof) before the relevant policies, contracts or entries expire and shall procure that the Owner's Insurance Broker and/or the relevant protection and indemnity association or war risks association shall promptly confirm in writing to the Administrative Agent as and when each such renewal has been effected.
- 10. <u>Execution of guarantees</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, promptly arrange for the execution and delivery of such guarantees in respect of the Collateral Rigs as may from time to time be required by any protection and indemnity or war risks association in accordance with its rules or the terms of entry of the Collateral Rigs.
- 11. <u>Information from brokers</u>. The Borrower shall, or shall cause each of the Collateral Vessel-Owning Subsidiaries to, procure that the Owner's Insurance Broker and the managers of any protection and indemnity and/or war risks association with which a Collateral Rig is entered shall give to the Administrative Agent such information as to the insurances as the Administrative Agent may reasonably request, except any proprietary information, including marketing negotiations, which the Owner's Insurance Broker is not allowed to provide.
- 12. Restriction on amendments to cover. The Borrower shall, and shall not permit the Collateral Vessel-Owning Subsidiaries to, without the prior consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed), make any alteration (other than underwriter-mandated amendments or changes, in which case prompt notice thereof shall be provided to the Administrative Agent) to the terms of any of the insurances which would or could reasonably be expected to have a material adverse effect on the rights or interests of the Pari Passu Collateral Agent nor shall the Borrower take any action or omit to take any action or suffer any act or omission, or permit any Collateral Vessel-Owning Subsidiary to take any action or suffer any act or omission, which would or would be likely to render any of the insurances invalid, void, voidable, suspended, defeated or unenforceable or render any sum payable thereunder repayable in whole or in part (save and to the extent that replacement cover has been effected in accordance with this Schedule 8.21).
- 13. Restriction on settlement of claims. Subject to the rights of any charterer, the Borrower shall not, and shall not permit any Collateral Vessel-Owing Subsidiary to, without the prior written consent of the Administrative Agent settle, compromise or abandon any claim under the insurances for an Event of Loss or any casualty to a Collateral Rig in respect of which the claim or the aggregate of the claims against all insurers, before adjustment for any relevant franchise or deductible, exceeds \$50,000,000 or the equivalent in any other currency. If an Event of Default has occurred and is continuing, the Administrative Agent shall have the exclusive right to negotiate such claims.
- 14. <u>Assistance by the Borrower</u>. Upon the occurrence and continuance of an Event of Default, the Borrower shall undertake to do, or to cause the Collateral Vessel-Owning Subsidiaries to do,

all things and provide all documents, evidence and information as may be necessary, proper and desirable to enable the Pari Passu Collateral Agent to collect or recover any moneys which at any time become due in respect of the insurances and for such purpose (but without limitation) the Borrower shall permit the Pari Passu Collateral Agent if necessary to sue in the Borrower's or any of the Collateral Vessel-Owning Subsidiaries' names.

15. Employment in conformity with insurance cover. The Borrower will not, and will not permit any Collateral Vessel-Owning Subsidiary to, at any time employ any Collateral Rig or suffer it to be employed except in conformity with the terms of the insurances (including any express or implied warranties) without first obtaining the consent to such employment of the insurers and complying with such requirements as to extra premium or otherwise as the insurers may prescribe and before allowing any Collateral Rig to enter or trade to or operate in any zone which is declared a war zone by any government or by such Collateral Rig's war risks insurers or which is rendered dangerous by reason of hostility in any part of the world (whether war be declared or not) to effect such special insurance cover so as to ensure that the Collateral Rig is fully insured against war risks in accordance with this Schedule 8.21 while in such zone.

For purposes of this Schedule 8.21, "protection and indemnity risks" shall means (a) the usual risks covered by a protection and indemnity association which is a member of the International Group of Protection and Indemnity Associations (together with any successor association or replacement body of such associations, the "IGA") including pollution risks and the proportion (if any) of any sums payable to any other Person or Persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in them of Section 1 of the Institute Time Sections (Hulls)(1/10/83) or Section 8 of the Institute Time Sections (Hulls) (1/11/1995) or the Institute Amended Running Down Section (1/10/71) or any equivalent provision; or (b) if those risks are placed on Norwegian terms, protection, and indemnity risks as defined in the Norwegian Marine Insurance Plan of 1996 (as amended).

COLLATERAL RIGS

Names	Registered Owner(s)	Official Number	Jurisdiction
Pacific Bora	Pacific Bora Ltd.	14745	Liberia
Pacific Mistral	Pacific Mistral Ltd.	14747	Liberia
Pacific Santa Ana	Pacific Santa Ana SARL	14748	Liberia
Pacific Scirocco	Pacific Scirocco Ltd.	14746	Liberia

SCHEDULE 10.01

EXISTING LIENS

- 1. Liens securing the Indebtedness listed in item 1 of Schedule 10.04 (secured by the Pacific Sharav and Pacific Meltem and certain other related collateral).
- 2. Liens securing the Indebtedness listed in item 2 of Schedule 10.04 (secured by the Pacific Khamsin, and certain other related collateral).

SCHEDULE 10.04

EXISTING INDEBTEDNESS

- 1. Indebtedness pursuant to the SSCF with total aggregate commitments available thereunder to the borrowers in the amount of \$1.0 billion and borrowings outstanding on the Effective Date in the amount of \$1 million. Pacific Sharav S.à.r.l. and Pacific Drilling VII Limited are the borrowers and Pacific Drilling S.A. is the guarantor under the SSCF.
- 2. Indebtedness in the aggregate principal amount of \$500.0 million pursuant to the 7.25% Senior Secured Notes issued by Pacific Drilling V Ltd. on November 28, 2012 and guaranteed by Pacific Drilling S.A.

SCHEDULE 10.05

EXISTING INVESTMENTS

None.

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

DATE: []
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Reference is made to the Credit Agreement described in Item 2 of Annex I annexed hereto (as such Credit Agreement may hereafter be amended, restated, modified or supplemented from time to time, the "Credit Agreement"). Unless defined in Annex I attached hereto, capitalized terms defined in the Credit Agreement are used herein as therein defined. (the "Assignor") and (the "Assignee") hereby agree as follows:

- 1. For an agreed consideration the Assignor hereby sells and assigns to the Assignee without recourse and without representation or warranty (other than as expressly provided herein), and the Assignee hereby purchases and assumes from the Assignor, that interest and amount of each applicable Class in and to all of the Assignor's rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant thereto as of the date hereof which represents the percentage interest specified in Item 4 of Annex I attached hereto (the "Assigned Share") of all of the Assignor's outstanding rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant hereto indicated in Item 4 of such Annex I, including, without limitation, in the case of any assignment of all or any portion of the Assignor's Commitment, all rights and obligations with respect to the Assigned Share of the Total Commitment and of all outstanding Loans and Letters of Credit.
- 2. The Assignor (i) represents and warrants that it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any liens or security interests and has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement; (ii) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or the other Credit Documents or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement or the other Credit Documents or any other instrument or document furnished pursuant thereto; and (iii) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or any of its Subsidiaries or the performance or observance by the Borrower or any of its Subsidiaries of any of their respective obligations under the Credit Agreement or the other Credit Documents or any other instrument or document furnished pursuant thereto.
- 3. The Assignee (i) confirms that it is [a Lender]/[an Affiliate of a Lender]/[an Eligible Transferee]; (ii) confirms that it has received a copy of the Credit Agreement and the other Credit Documents, together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption Agreement; (iii) represents and warrants that it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption Agreement; (iv) agrees that it will, independently and without reliance upon the Administrative Agent, the Assignor or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit

Agreement; (v) appoints and authorizes the Administrative Agent and the Pari Passu Collateral Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Credit Documents as are delegated to the Administrative Agent and the Pari Passu Collateral Agent by the terms thereof, together with such powers as are reasonably incidental thereto; [and] (vi) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender[; and (vii) attaches any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee]. ¹

- 4. Following the execution of this Assignment and Assumption Agreement by the Assignor and the Assignee, an executed original hereof (together with all attachments) will be delivered to the Administrative Agent. The effective date of this Assignment and Assumption Agreement shall be the date of execution hereof by the Assignor, the Assignee and the consent hereof by the Borrower, the Administrative Agent, and each Issuing Lender, in each case, if required by Section 13.04(b) of the Credit Agreement, the recordation by the Administrative Agent of the assignment effected hereby in the Register and the receipt by the Administrative Agent of the applicable administrative fee referred to in Section 13.04(b) of the Credit Agreement, unless otherwise specified in Item 5 of Annex I attached hereto (the "Settlement Date").
- 5. Upon the delivery of a fully executed original hereof to the Administrative Agent, as of the Settlement Date, (i) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Assumption Agreement, have the rights and obligations of a Lender thereunder and under the other Credit Documents and (ii) the Assignor shall, to the extent provided in this Assignment and Assumption Agreement, relinquish its rights and be released from its obligations under the Credit Agreement and the other Credit Documents. For the avoidance of doubt, it is hereby understood and agreed that the Assigned Share of the Assignee shall be secured to the same extent as the other Secured Creditors under each of the Security Documents in effect from time to time.
- 6. It is agreed that upon the effectiveness hereof, the Administrative Agent shall make all payments in respect of an Assigned Share (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Settlement Date and to the Assignee for amounts which have accrued from and after the Settlement Date. Notwithstanding the foregoing, the Administrative Agent shall make all payments of interest, fees or other amounts paid or payable in kind from and after the Settlement Date to the Assignee. Upon the Settlement Date, the Assignee shall pay to the Assignor an amount specified by the Assignor in writing which represents the Assigned Share of the principal amount of the respective Loans made by the Assignor pursuant to the Credit Agreement which are outstanding on the Settlement Date, net of any closing costs, and which are being assigned hereunder. The Assignor and the Assignee shall make all appropriate adjustments in payments under the Credit Agreement for periods prior to the Settlement Date directly between themselves.

Insert if the Assignee is organized under the laws of a jurisdiction outside the United States.

7. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns.

 $8.\ THIS$ ASSIGNMENT AND ASSUMPTION AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

* * *

Exhibit A Page 4

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written, such execution also being made on Annex I attached hereto.

	[NAME OF ASSIGNOR], as Assignor	
	By: Name: Title:	
	[NAME OF ASSIGNEE], as Assignee	
	By: Name: Title:	
[Acknowledged and Agreed:] ²		
CITIBANK, N.A., as Administrative Agent [and Issuing Lender]		
By: Name:		

[Insert Signature Blocks for other Issuing Lender(s)] ³

Insert only if assignment is being made pursuant to Section 13.04(b)(y) of the Credit Agreement.

Insert only if assignment is being made pursuant to Section 13.04(b)(y) of the Credit Agreement.

[Consented to:] ⁴	
PACIFIC DRILLING S.A., as Borrower	
By: Name: Title:	

⁴ Insert only if the consent of the Borrower is required by the terms of the Credit Agreement.

ANNEX FOR ASSIGNMENT AND ASSUMPTION AGREEMENT

- 1. The Borrower: Pacific Drilling S.A. (the "Borrower").
- 2. Name and Date of Credit Agreement:

Credit Agreement, dated as of June 3, 2013, among the Borrower, the lenders from time to time party thereto, and Citibank, N.A., as Administrative Agent (as amended, restated, modified and/or supplemented from time to time, the "Credit Agreement").

- 3. Date of Assignment and Assumption Agreement:
- 4. Amounts (as of date of item #3 above):

	Outstanding		
	Principal of		
	Loans	Commitment	Class Assigned
a. Aggregate Amount for all Lenders	\$	\$	
b. Assigned Share	%	%	
c. Amount of Assigned Share	\$	\$	

5. Settlement Date:

ANNEX I to Exhibit A Page 2

6.	Notice:	ASSIGNEE:
		Attention:
		Telephone No.:
		Facsimile No.:
7.	Payment Instruc	tions: ASSIGNEE:
		ABA No.:
		Account No.:
		Attention:
		Reference:

FORM OF U.S. SUBSIDIARY GUARANTY

U.S. SUBSIDIARY GUARANTY, dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, this "Guaranty"), made by Pacific Drilling S.A. (the "Borrower") and each of the undersigned Subsidiary Guarantors (as such term is defined in the Credit Agreement referred to below) (together with the Borrower and each other entity that becomes a guarantor hereunder pursuant to Section 28 hereof, collectively, the "Guarantors") in favor of CITIBANK, N.A., as Administrative Agent (together with any successor administrative agent, the "Administrative Agent"), for the benefit of the Secured Creditors (as such term is defined in the Credit Agreement referred to below). Except as otherwise defined herein, all capitalized terms used herein and defined in the Credit Agreement (as defined below) shall be used herein as therein defined.

WITNESSETH:

WHEREAS, the Borrower, the lenders from time to time party thereto (the "Lenders") and the Administrative Agent have entered into a Credit Agreement, dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), providing for the making of Loans to the Borrower and the issuance of Letters of Credit for the account of the Borrower or any of its Restricted Subsidiaries as contemplated therein;

WHEREAS, the Borrower or any Restricted Subsidiary of the Borrower has entered into, or may at any time and from time to time after the date hereof enter into, (a) one or more Interest Rate Protection Agreements and/or Other Hedging Agreements with one or more Other Creditors (with each such Interest Rate Protection Agreement and/or Other Hedging Agreement with an Other Creditor being herein called a "Secured Hedging Agreement") or (b) one or more Secured Cash Management Agreements;

WHEREAS, each Subsidiary Guarantor is a direct or indirect Subsidiary of the Borrower;

WHEREAS, it is a condition to the making of Loans to the Borrower and the issuance of Letters of Credit for the account of the Borrower or any of its Restricted Subsidiaries under the Credit Agreement and to the Other Creditors entering into Secured Hedging Agreements or Secured Cash Management Agreements that each Guarantor shall have executed and delivered to the Administrative Agent this Guaranty; and

WHEREAS, the Borrower and each other Guarantor will obtain benefits from the incurrence of Loans by the Borrower and the issuance of Letters of Credit for the account of the Borrower or any of its Restricted Subsidiaries under the Credit Agreement and the entering into by the Borrower or any Restricted Subsidiary of the Borrower of Secured Hedging Agreements or Secured Cash Management Agreements and, accordingly, desires to execute this Guaranty in order to satisfy the conditions described in the preceding paragraph and to induce the Lenders to make Loans to the Borrower and issue, and/or participate in, Letters of Credit for the account of

the Borrower or any of its Restricted Subsidiaries and the Other Creditors to enter into Secured Hedging Agreements or Secured Cash Management Agreements with the Borrower or any Restricted Subsidiary of the Borrower.

NOW, THEREFORE, in consideration of the benefits accruing to each Guarantor, the receipt and sufficiency of which are hereby acknowledged, each Guarantor hereby makes the following representations and warranties to the Administrative Agent for the benefit of the Secured Creditors and hereby covenants and agrees with the Administrative Agent for the benefit of the Secured Creditors as follows:

1. Each Guarantor, jointly and severally, irrevocably, absolutely and unconditionally guarantees as primary obligor and not merely as surety, the Obligations and the Other Obligations (all such obligations, liabilities, sums and expenses being herein collectively called the "Guaranteed Obligations", it being acknowledged and agreed that the "Guaranteed Obligations" shall not include any Excluded Swap Obligations).

Each Guarantor understands, agrees and confirms that the Secured Creditors may enforce this Guaranty up to the full amount of the Guaranteed Obligations against such Guarantor without proceeding against the Borrower, any other Guarantor and/or any other Subsidiary of the Borrower against any security for the Guaranteed Obligations, or under any other guaranty covering all or a portion of the Guaranteed Obligations.

- 2. Additionally, each Guarantor, jointly and severally, unconditionally, absolutely and irrevocably, guarantees the payment by the Borrower of any and all Guaranteed Obligations whether or not due or payable upon the occurrence in respect of the Borrower of any of the events specified in Section 11.05 of the Credit Agreement, and unconditionally and irrevocably, jointly and severally, promises to pay such Guaranteed Obligations to the Secured Creditors, or order, on demand. This Guaranty shall constitute a guaranty of payment and not of collection.
- 3. The liability of each Guarantor hereunder is absolute, joint and several, and unconditional and is exclusive and independent of any security for or other guaranty of the Guaranteed Obligations or other indebtedness of the Borrower or any of its Restricted Subsidiaries with respect to Secured Hedging Agreements and Secured Cash Management Agreements whether executed by such Guarantor, any other guarantor, any other party, and the liability of each Guarantor hereunder shall not be affected or impaired by any circumstance or occurrence whatsoever, including, without limitation: (a) any direction as to application of payment by the Borrower or by any other party, (b) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Guaranteed Obligations, (c) any payment on or in reduction of any such other guaranty or undertaking, (d) any dissolution, termination or increase, decrease or change in personnel by the Borrower or any of its Restricted Subsidiaries, (e) any payment made to any Secured Creditor on the indebtedness which any Secured Creditor repays to the Borrower or any of its Restricted Subsidiaries pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each Guarantor waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding, (f) any action or inaction by the Secured Creditors as contemplated in Section 6 hereof or (g) any invalidity, irregularity or unenforceability of all or any part of the Guaranteed Obligations or of any security therefor.

- 4. The obligations of each Guarantor hereunder are independent of the obligations of any other Guarantor, any other guarantor or the Borrower, and a separate action or actions may be brought and prosecuted against each Guarantor whether or not action is brought against any other Guarantor, any other guarantor or the Borrower and whether or not any other Guarantor, any other guarantor or the Borrower be joined in any such action or actions. Each Guarantor waives, to the fullest extent permitted by law, the benefits of any statute of limitations affecting its liability hereunder or the enforcement thereof. Any payment by the Borrower or any of its Restricted Subsidiaries or other circumstance which operates to toll any statute of limitations as to the Borrower or any of its Restricted Subsidiaries shall operate to toll the statute of limitations as to each Guarantor.
- 5. Each Guarantor hereby waives notice of acceptance of this Guaranty and notice of any liability to which it may apply, and waives promptness, diligence, presentment, demand of payment, protest, notice of dishonor or nonpayment of any such liabilities, suit or taking of other action by the Administrative Agent or any other Secured Creditor against, and any other notice to, any party liable thereon (including, without limitation, such Guarantor, any other Guarantor or the Borrower).
- 6. Any Secured Creditor may at any time and from time to time without the consent of, or notice to, any Guarantor, without incurring responsibility to such Guarantor, without impairing or releasing the obligations of such Guarantor hereunder, upon or without any terms or conditions and in whole or in part:
 - (a) change the manner, place or terms of payment of, and/or change, increase or extend the time of payment of, renew, accelerate or alter, any of the Guaranteed Obligations (including, without limitation, any increase or decrease in the rate of interest thereon or the principal amount thereof), any security therefor, or any liability incurred directly or indirectly in respect thereof, and the guaranty herein made shall apply to the Guaranteed Obligations as so changed, extended, renewed or altered;
 - (b) take and hold security for the payment of the Guaranteed Obligations and sell, exchange, release, surrender, impair, realize upon or otherwise deal with in any manner and in any order any property or other collateral by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Guaranteed Obligations or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any offset there against;
 - (c) exercise or refrain from exercising any rights against the Borrower, any Guarantor or any other guarantor, any other Subsidiary of the Borrower or otherwise act or refrain from acting;
 - (d) release or substitute any one or more endorsers, Guarantors, other guarantors or the Borrower;

- (e) settle or compromise any of the Guaranteed Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of the Borrower to creditors of the Borrower other than the Secured Creditors;
- (f) apply any sums by whomsoever paid or howsoever realized to any liability or liabilities of the Borrower to the Secured Creditors regardless of what liabilities of the Borrower remain unpaid;
- (g) consent to or waive any breach of, or any act, omission or default under, any of the Secured Hedging Agreements, the Secured Cash Management Agreements, the Credit Documents or any of the instruments or agreements referred to therein, or otherwise amend, modify or supplement any of the Secured Hedging Agreements, the Secured Cash Management Agreements, the Credit Documents or any of such other instruments or agreements;
- (h) act or fail to act in any manner which may deprive such Guarantor of its right to subrogation against the Borrower to recover full indemnity for any payments made pursuant to this Guaranty; and/or
- (i) take any other action which would, under otherwise applicable principles of common law, give rise to a legal or equitable discharge of such Guarantor from its liabilities under this Guaranty.

No invalidity, illegality, irregularity or unenforceability of all or any part of the Guaranteed Obligations, the Credit Documents or any other agreement or instrument relating to the Guaranteed Obligations or of any security or guarantee therefor shall affect, impair or be a defense to this Guaranty, and this Guaranty shall be absolute and unconditional notwithstanding the occurrence of any event or the existence of any other circumstances which might constitute a legal or equitable discharge of a surety or guarantor except payment in full of the Guaranteed Obligations.

7. This Guaranty is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. No failure or delay on the part of any Secured Creditor in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein expressly specified are cumulative and not exclusive of any rights or remedies which any Secured Creditor would otherwise have. No notice to or demand on any Guarantor in any case shall entitle such Guarantor to any other further notice or demand in similar or other circumstances or constitute a waiver of the rights of any Secured Creditor to any other or further action in any circumstances without notice or demand. It is not necessary for any Secured Creditor to inquire into the capacity or powers of the Borrower or any of its Restricted Subsidiaries that are party to any Secured Hedging Agreements or Secured Cash Management Agreements or any of the officers, directors, partners or agents acting or purporting to act on its or their behalf, and any indebtedness made or created in reliance upon the professed exercise of such powers shall be guaranteed hereunder.

- 8. Any indebtedness of the Borrower or any of its Restricted Subsidiaries now or hereafter held by any Guarantor is hereby subordinated to the indebtedness of the Borrower or any of its Restricted Subsidiaries to the Secured Creditors, and such indebtedness of the Borrower or any of its Restricted Subsidiaries to any Guarantor, if the Administrative Agent or the Pari Passu Collateral Agent, as applicable, after the occurrence and during the continuance of an Event of Default, so requests, shall be collected, enforced and received by such Guarantor as trustee for the Secured Creditors and be paid over to the Secured Creditors on account of the indebtedness of the Borrower or any of its Restricted Subsidiaries to the Secured Creditors, but without affecting or impairing in any manner the liability of such Guarantor under the other provisions of this Guaranty. Prior to the transfer by any Guarantor of any note or negotiable instrument evidencing any indebtedness of the Borrower or any of its Restricted Subsidiaries to such Guarantor, such Guarantor shall mark such note or negotiable instrument with a legend that the same is subject to this subordination. Without limiting the generality of the foregoing, each Guarantor hereby agrees with the Secured Creditors that it will not exercise any right of subrogation which it may at any time otherwise have as a result of this Guaranty (whether contractual, under Section 509 of the Bankruptcy Code or otherwise) until all Guaranteed Obligations have been irrevocably paid in full in cash.
- 9. (a) Each Guarantor waives any right (except as shall be required by applicable law and cannot be waived) to require the Secured Creditors to: (i) proceed against the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party; (ii) proceed against or exhaust any security held from the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party; or (iii) pursue any other remedy in the Secured Creditors' power whatsoever. Each Guarantor waives any defense based on or arising out of any defense of the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party other than payment in full in cash of the Guaranteed Obligations, including, without limitation, any defense based on or arising out of the disability of the Borrower, any other Guarantor, any other guarantor of the Guaranteed Obligations or any other party, or the unenforceability of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrower other than payment in full of the Guaranteed Obligations in cash. The Secured Creditors may, at their election, foreclose on any security held by the Administrative Agent, the other Secured Creditors or the Pari Passu Collateral Agent by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, or exercise any other right or remedy the Secured Creditors may have against the Borrower or any other party, or any security, without affecting or impairing in any way the liability of any Guarantor hereunder except to the extent the Guaranteed Obligations have been paid in full in cash. Each Guarantor waives any defense arising out of any such election by the Secured Creditors, even though such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of such Guarantor against the Borrower or any other party or any security.
- (b) Each Guarantor waives all presentments, demands for performance, protests and notices, including, without limitation, notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Guaranty, and notices of the existence, creation

or incurring of new or additional indebtedness. Each Guarantor assumes all responsibility for being and keeping itself informed of the Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks which such Guarantor assumes and incurs hereunder, and agrees that the Secured Creditors shall have no duty to advise any Guarantor of information known to them regarding such circumstances or risks.

- 10. By their acceptance of the benefits of this Guaranty, the Secured Creditors agree that this Guaranty may be enforced only by the action of the Administrative Agent or the Pari Passu Collateral Agent, as applicable, in each case acting upon the instructions of the Required Lenders (or, after the date on which all Obligations have been paid in full, the holders of at least a majority of the outstanding Other Obligations) and that no other Secured Creditors shall have any right individually to seek to enforce or to enforce this Guaranty or to realize upon the security to be granted by the Security Documents, it being understood and agreed that such rights and remedies may be exercised by the Administrative Agent or the Pari Passu Collateral Agent, as applicable, or, after all the Obligations have been paid in full, by the holders of at least a majority of the outstanding Other Obligations, as the case may be, for the benefit of the Secured Creditors upon the terms of this Guaranty and the Security Documents. By their acceptance of the benefits of this Guaranty, the Secured Creditors further agree that this Guaranty may not be enforced against any director, officer, employee, partner, member or stockholder of any Guarantor (except to the extent such partner, member or stockholder is also a Guarantor hereunder).
- 11. In order to induce the Lenders to make Loans to the Borrower and issue Letters of Credit for the account of the Borrower or any of its Restricted Subsidiaries pursuant to the Credit Agreement, and in order to induce the Other Creditors to execute, deliver and perform the Secured Hedging Agreements and the Secured Cash Management Agreements, each Guarantor represents, warrants and covenants that:
 - (a) Such Guarantor (i) is a duly organized or incorporated and validly existing corporation, limited liability company, limited partnership, company or other business entity, as the case may be, in good standing (or the equivalent) under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or other applicable power and authority to own its property and assets and to transact the business in which it is engaged and presently proposes to engage and (iii) is duly qualified and is authorized to do business and is in good standing (or the equivalent) in each jurisdiction where the ownership, leasing or operation of its property or the conduct of its business requires such qualifications, except for failures to be so qualified which, either individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect. Except to the extent permitted by the Credit Agreement, such Guarantor has not taken any corporate or other applicable action and no other steps have been taken or legal proceedings been started or (to the best of its knowledge and belief) threatened in writing against such Guarantor for winding up, or dissolution or for the appointment of a liquidator, administrator, receiver, administrative receiver, trustee or similar officer of such Guarantor or any or all of its assets or revenues and such Guarantor has not sought any other relief under any applicable insolvency or bankruptcy law.

- (b) Such Guarantor has the corporate or other applicable power and authority to execute, deliver and perform the terms and provisions of this Guaranty and each other Credit Document to which it is a party and has taken all necessary corporate or other applicable action to authorize the execution, delivery and performance by it of this Guaranty and each such other Credit Document. Such Guarantor has duly executed and delivered this Guaranty and each other Credit Document to which it is a party, and this Guaranty and each such other Credit Document constitutes the legal, valid and binding obligation of such Guarantor enforceable in accordance with its terms, except to the extent that the enforceability hereof or thereof may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).
- (c) Neither the execution, delivery or performance by such Guarantor of this Guaranty or any other Credit Document to which it is a party, nor compliance by it with the terms and provisions hereof and thereof, (i) will contravene in any material respect any applicable provision of any law, statute, rule or regulation or any order, writ, injunction or decree of any court or governmental instrumentality, (ii) will conflict in any material respect with or result in any material breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any Lien (except pursuant to the Security Documents) upon any of the properties or assets of such Guarantor pursuant to the terms of any indenture, mortgage, deed of trust, credit agreement or loan agreement, or any other material agreement, contract or instrument, in each case to which such Guarantor is a party or by which it or any of its property or assets is bound or to which it may be subject or (iii) will violate any provision of the certificate or articles of incorporation or by-laws (or equivalent organizational documents) of such Guarantor.
- (d) No order, consent, approval, license, authorization or validation of, or filing, recording or registration with (except as have been obtained or made prior to the date hereof and which remain in full force and effect), or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorize, or is required in connection with, (i) the execution, delivery and performance of this Guaranty by such Guarantor or any other Credit Document to which such Guarantor is a party or (ii) the legality, validity, binding effect or enforceability of this Guaranty or any other Credit Document to which such Guarantor is a party.
- (e) There are no actions, suits or proceedings pending or, to such Guarantor's knowledge, threatened (i) with respect to this Guaranty or any other Credit Document to which such Guarantor is a party or (ii) with respect to such Guarantor or any of its Subsidiaries that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.
- 12. Each Guarantor covenants and agrees that on and after the Effective Date and until the termination of the Total Commitment, all Secured Hedging Agreements and all Secured Cash Management Agreements and until such time as no Note or Letter of Credit remains outstanding and all Guaranteed Obligations have been paid in full, such Guarantor will

comply, and will cause each of its Subsidiaries that is a Restricted Subsidiary to comply, with all of the applicable provisions, covenants and agreements contained in Sections 9 and 10 of the Credit Agreement, and will take, or will refrain from taking, as the case may be, all actions that are necessary to be taken or not taken so that it is not in violation of any provision, covenant or agreement contained in Section 9 or 10 of the Credit Agreement, and so that no Default or Event of Default is caused by the actions of such Guarantor or any of its Subsidiaries.

- 13. The Guarantors hereby jointly and severally agree to pay all reasonable out-of-pocket costs and expenses of the Pari Passu Collateral Agent, Administrative Agent and each Secured Creditor (including, without limitation, the reasonable fees and disbursements of a single counsel to such parties plus one special maritime counsel to such parties, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) and as may otherwise be incurred for the protection of such Secured Creditors' rights hereunder in connection with the enforcement of this Guaranty and of the Pari Passu Collateral Agent and the Administrative Agent in connection with any amendment, waiver or consent relating hereto.
- 14. This Guaranty shall be binding upon each Guarantor and its successors and assigns and shall inure to the benefit of the Secured Creditors and their successors and assigns.
- 15. Neither this Guaranty nor any provision hereof may be amended, supplemented, changed, waived, discharged or terminated except with the written consent of each Guarantor directly affected thereby and with the written consent of either (x) the Required Lenders (or, to the extent required by Section 13.12 of the Credit Agreement, with the written consent of each Lender) at all times prior to the time on which all Obligations have been paid in full or (y) the holders of at least a majority of the outstanding Other Obligations at all times after the time on which all Obligations have been paid in full; provided that any change, waiver, modification or variance affecting the rights and benefits of a single Class (as defined below) of Secured Creditors (and not all Secured Creditors in a like or similar manner) shall also require the written consent of the Requisite Creditors (as defined below) of such Class of Secured Creditors (it being understood that the addition or release of any Guarantor hereunder shall not constitute a change, waiver, discharge or termination affecting any Guarantor other than the Guarantor so added or released). For the purpose of this Guaranty, the term "Class" shall mean each class of Secured Creditors, i.e., whether (x) the Lender Creditors as holders of the Obligations or (y) the Other Creditors as the holders of the Other Obligations. For the purpose of this Guaranty, the term "Requisite Creditors" of any Class shall mean (x) with respect to the Other Obligations, the Required Lenders (or, to the extent required by Section 13.12 of the Credit Agreement, each Lender) and (y) with respect to the Other Obligations, the holders of at least a majority of all obligations outstanding from time to time under the Secured Hedging Agreements and the Secured Cash Management Agreements.
- 16. Each Guarantor acknowledges that an executed (or conformed) copy of each of the Credit Documents, each of the Secured Hedging Agreements and each of the Secured Cash Management Agreements has been made available to a senior officer, director or manager or a senior officer, director or manager of such Guarantor and such individual is familiar with the contents thereof.

- 17. In addition to any rights now or hereafter granted under applicable law or otherwise and not by way of limitation of any such rights, upon the occurrence and during the continuance of an Event of Default (such term to mean and include any "Event of Default" as defined in the Credit Agreement and any payment default under any Secured Hedging Agreement or any Secured Cash Management Agreement continuing after any applicable grace period), each Secured Creditor is hereby authorized, at any time or from time to time, without presentment, demand, protest or other notice to any Guarantor or to any other Person, any such notice being expressly waived, to set off and to appropriate and apply any and all deposits (general or special) and any other indebtedness at any time held or owing by such Secured Creditor to or for the credit or the account of such Guarantor, against and on account of the obligations and liabilities of such Guarantor to such Secured Creditor under this Guaranty, irrespective of whether or not such Secured Creditor shall have made any demand hereunder and although said obligations, liabilities, deposits or claims, or any of them, shall be contingent or unmatured; provided that in the event that any Defaulting Lender exercises any such right of setoff, (a) all amounts so set off will be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.13 of the Credit Agreement and, pending such payment, will be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Secured Creditors and (b) the Defaulting Lender will provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff.
- 18. (a) All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party, (i) in the case of any Lender Creditor, as provided in the Credit Agreement, (ii) in the case of any Guarantor, to such Guarantor at c/o Pacific Drilling Services, Inc., 3050 Post Oak Blvd., Suite 1500, Houston, Texas 77056, Attention: John Boots, Facsimile No. (713) 583-5777, and (iii) in the case of any Other Creditor, at such address as such Other Creditor shall have specified in writing to the Guarantors; or in any case at such other address as any of the Persons listed above may hereafter notify the others in writing.
- (b) Any Lender Creditor, Other Creditor or Guarantor may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

19. If any claim is ever made upon any Secured Creditor for repayment or recovery of any amount or amounts received in payment or on account of any of the Guaranteed Obligations and any of the aforesaid payees repays all or part of said amount by reason of (a) any judgment, decree or order of any court or administrative body having jurisdiction over such payee or any of its property or (b) any settlement or compromise of any such claim effected by such payee with any such claimant (including, without limitation, the Borrower) then and in such event each Guarantor agrees that any such judgment, decree, order, settlement or compromise shall be binding upon such Guarantor, notwithstanding any revocation hereof or other instrument evidencing any liability of the Borrower and such Guarantor shall be and remain liable to the aforesaid payees hereunder for the amount so repaid or recovered to the same extent as if such amount had never originally been received by any such payee.

20. (a) THIS GUARANTY AND THE RIGHTS AND OBLIGATIONS OF THE SECURED CREDITORS AND OF THE UNDERSIGNED HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS GUARANTY OR ANY OTHER CREDIT DOCUMENT TO WHICH ANY GUARANTOR IS A PARTY SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS GUARANTY OR ANY OTHER CREDIT DOCUMENT TO WHICH ANY GUARANTOR IS A PARTY, EACH GUARANTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH GUARANTOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GUARANTOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS GUARANTY OR ANY OTHER CREDIT DOCUMENT TO WHICH SUCH GUARANTOR IS A PARTY BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GUARANTOR. EACH GUARANTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 18 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH GUARANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER CREDIT DOCUMENT TO WHICH SUCH GUARANTOR IS A PARTY THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE SECURED CREDITORS TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY GUARANTOR IN ANY OTHER JURISDICTION.

- (b) EACH GUARANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS GUARANTY OR ANY OTHER CREDIT DOCUMENT TO WHICH SUCH GUARANTOR IS A PARTY BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS GUARANTY, THE OTHER CREDIT DOCUMENTS TO WHICH SUCH PARTY IS A PARTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- 21. (a) In the event that all of the Capital Stock of one or more Guarantors is the subject of an Asset Disposition in compliance with the requirements of Section 10.02 of the Credit Agreement (or with respect to which the Required Lenders (or such other Lenders as may be required to give such consent under Section 13.12 of the Credit Agreement) have otherwise consented) and the proceeds of such Asset Disposition are applied in accordance with the provisions of the Credit Agreement, to the extent applicable, such Guarantor shall, upon consummation of such Asset Disposition (except to the extent that such Asset Disposition is to the Borrower or another Restricted Subsidiary thereof), be released from this Guaranty automatically and without further action and this Guaranty shall, as to each such Guarantor or Guarantors, terminate, and have no further force or effect.
- (b) Upon termination of the Total Commitments and payment in full of all Obligations (other than (i) contingent indemnification obligations and (ii) obligations and liabilities under Secured Cash Management Agreements and Secured Hedging Agreements as to which arrangements reasonably satisfactory to the Other Creditor shall have been made) and the expiration or termination of all Letters of Credit, this Guaranty shall be automatically terminated, discharged and released.
- 22. At any time a payment in respect of the Guaranteed Obligations is made under this Guaranty, the right of contribution of each Guarantor against each other Guarantor shall be determined as provided in the immediately following sentence, with the right of contribution of each Guarantor to be revised and restated as of each date on which a payment (a "Relevant Payment") is made on the Guaranteed Obligations under this Guaranty. At any time that a Relevant Payment is made by a Guarantor that results in the aggregate payments made by such Guarantor in respect of the Guaranteed Obligations to and including the date of the Relevant Payment exceeding such Guarantor's Contribution Percentage (as defined below) of the aggregate payments made by all Guarantors in respect of the Guaranteed Obligations to and including the date of the Relevant Payment (such excess, the "Aggregate Excess Amount"), each such Guarantor shall have a right of contribution against each other Guarantor who has made payments in respect of the Guaranteed Obligations to and including the date of the Relevant Payment in an aggregate amount less than such other Guarantor's Contribution Percentage of the

aggregate payments made to and including the date of the Relevant Payment by all Guarantors in respect of the Guaranteed Obligations (the aggregate amount of such deficit, the "Aggregate Deficit Amount") in an amount equal to (x) a fraction the numerator of which is the Aggregate Excess Amount of such Guarantor and the denominator of which is the Aggregate Excess Amount of all Guarantors multiplied by (y) the Aggregate Deficit Amount of such other Guarantor. A Guarantor's right of contribution pursuant to the preceding sentences shall arise at the time of each computation, subject to adjustment to the time of each computation; provided that no Guarantor may take any action to enforce such right until the Guaranteed Obligations have been irrevocably paid in full in cash, it being expressly recognized and agreed by all parties hereto that any Guarantor's right of contribution arising pursuant to this Section 22 against any other Guarantor shall be expressly junior and subordinate to such other Guarantor's obligations and liabilities in respect of the Guaranteed Obligations and any other obligations owing under this Guaranty. As used in this Section 22: (i) each Guarantor's "Contribution Percentage" shall mean the percentage obtained by dividing (x) the Adjusted Net Worth (as defined below) of such Guarantor by (y) the aggregate Adjusted Net Worth of all Guarantors; (ii) the "Adjusted Net Worth "of each Guarantor shall mean the greater of (x) the Net Worth (as defined below) of such Guarantor and (y) zero; and (iii) the "Net Worth" of each Guarantor shall mean the amount by which the fair saleable value of such Guarantor's assets on the date of any Relevant Payment exceeds its existing debts and other liabilities (including contingent liabilities, but without giving effect to any Guaranteed Obligations arising under this Guaranty) on such date. Notwithstanding anything to the contrary contained above, any Guarantor that is released from this Guaranty pursuant to Section 21 hereof shall thereafter have no contribution obligations, or rights, pursuant to this Section 22, and at the time of any such release, if the released Guarantor had an Aggregate Excess Amount or an Aggregate Deficit Amount, same shall be deemed reduced to \$0, and the contribution rights and obligations of the remaining Guarantors shall be recalculated on the respective date of release (as otherwise provided above) based on the payments made hereunder by the remaining Guarantors. All parties hereto recognize and agree that, except for any right of contribution arising pursuant to this Section 22, each Guarantor who makes any payment in respect of the Guaranteed Obligations shall have no right of contribution or subrogation against any other Guarantor in respect of such payment until all of the Guaranteed Obligations have been irrevocably paid in full in cash. Each of the Guarantors recognizes and acknowledges that the rights to contribution arising hereunder shall constitute an asset in favor of the party entitled to such contribution. In this connection, each Guarantor has the right to waive its contribution right against any Guarantor to the extent that after giving effect to such waiver such Guarantor would remain solvent, in the determination of the Required Lenders.

23. (a) Each Guarantor and each Secured Creditor (by its acceptance of the benefits of this Guaranty) hereby confirms that it is its intention that this Guaranty not constitute a fraudulent transfer or conveyance for purposes of the Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar Federal or state law. To effectuate the foregoing intention, each Guarantor and each Secured Creditor (by its acceptance of the benefits of this Guaranty) hereby irrevocably agrees that the Guaranteed Obligations guaranteed by such Guarantor shall be limited to such amount as will, after giving effect to such maximum amount and all other (contingent or otherwise) liabilities of such Guarantor that are relevant under such laws and after giving effect to any rights to contribution pursuant to any agreement providing for an equitable contribution among such Guarantor and the other Guarantors, result in the Guaranteed Obligations of such Guarantor in respect of such maximum amount not constituting a fraudulent transfer or conveyance.

- (b) Notwithstanding anything to the contrary contained herein, the Guaranteed Obligations guaranteed by each Guarantor incorporated in Luxembourg (each, a "Luxembourg Guarantor", and each such guarantee, a "Luxembourg Guarantee") shall at all times be limited to an aggregate amount not exceeding the greater of (i) 90% of the Luxembourg Guarantor's own funds ("capitaux propres", as referred to in article 34 of the Luxembourg law of 19 December 2002 on the commercial register and annual accounts, as amended by the law of 10 December 2010 on the introduction of international accounting standards for undertakings), as reflected in its last annual accounts duly approved and available on the date of enforcement of the Luxembourg Guarantee under the Guaranty; or (ii) 90% of the Luxembourg Guarantor's own funds ("capitaux propres", as referred to in article 34 of the Luxembourg law of 19 December 2002 on the commercial register and annual accounts, as amended by the law of 10 December 2010 on the introduction of international accounting standards for undertakings), as reflected in its last annual accounts duly approved and available as of the date hereof, save to the extent that the Luxembourg Guarantee relates to the obligations of a direct or indirect subsidiary of the relevant Luxembourg Guarantor.
- 24. As used in this Section 24, "Qualified ECP Guarantor" shall mean in respect of any Swap Obligation, each Credit Party that (a) has total assets exceeding \$10,000,000 at the time the Guaranty becomes effective with respect to such Swap Obligation or (b) otherwise constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Credit Party that is not a Qualified ECP Guarantor to honor all of its obligations under this Guaranty and the other Credit Documents in respect of Swap Obligations (provided , however , that each Qualified ECP Guarantor shall only be liable under this Section 24 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 24, or otherwise under this Guaranty, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 24 shall remain in full force and effect until all of the Guaranteed Obligations have been irrevocably paid in full in cash. Each Qualified ECP Guarantor intends that this Section 24 constitute, and this Section 24 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party that is not a Qualified ECP Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.
- 25. This Guaranty may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract.
- 26. All payments made by any Guarantor hereunder will be made without setoff, counterclaim or other defense and on the same basis as payments are made by the Borrower under Sections 5.03 and 5.04 of the Credit Agreement.

- 27. (a) If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder in Dollars into another currency, each Guarantor agrees that the rate of exchange used shall be that at which, in accordance with normal, reasonable banking procedures, the Administrative Agent could purchase Dollars with such other currency in New York City on the Business Day preceding that on which final judgment is given.
- (b) The obligations of each Guarantor in respect of any sum due to the Secured Creditors hereunder shall, notwithstanding any judgment in a currency other than Dollars, be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in such currency, the Administrative Agent may, in accordance with normal, reasonable banking procedures, purchase Dollars with such other currency. If the amount of Dollars so purchased is less than the sum originally due, in Dollars, each Guarantor agrees, to the fullest extent that it may effectively do so, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of Dollars so purchased is greater than the sum originally due, the Administrative Agent agrees to return the amount of any excess to such Guarantor (or to any other Person who may be entitled thereto under applicable law).
- 28. It is understood and agreed that any Subsidiary of the Borrower that is required to execute a counterpart of this Guaranty after the date hereof pursuant to Section 9.09(c) of the Credit Agreement shall become a Guarantor hereunder upon execution and delivery to the Administrative Agent of a supplement to this Guaranty substantially in the form attached hereto as Exhibit A.

* * *

IN WITNESS WHEREOF, each Guarantor has caused this Guaranty to be executed and delivered as of the date first above written.

	PACIFIC DRILLING S.A.
	By: Name: Title:
	[SIGNATURE BLOCK FOR EACH SUBSIDIARY GUARANTOR]
	By: Name: Title:
[Signature Page to U.S. Subsidiary	Guaranty]

Exhibit	t	E
Page	1	16

Accepted and Agreed to:		
CITIBANK, N.A., as Administrative Agent		
By: Name: Title:		

[Signature Page to U.S. Subsidiary Guaranty]

EXHIBIT A

[FORM OF]

GUARANTY SUPPLEMENT

This GUARANTY SUPPLEMENT (this "Guaranty Supplement"), dated as of [], 20[], is made by [], a [] (the "Additional Guarantor"), in favor of CITIBANK, N.A., as Administrative Agent (together with any successor administrative agent, the "Administrative Agent"), for the benefit of the Secured Creditors (as such term is defined in the Credit Agreement referred to below).

WITNESSETH:

WHEREAS, Pacific Drilling S.A. (the "Borrower"), the lenders from time to time party thereto and the Administrative Agent have entered into a Credit Agreement, dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), providing for the making of Loans to the Borrower and the issuance of Letters of Credit for the account of the Borrower or any of its Restricted Subsidiaries as contemplated therein;

WHEREAS, the Borrower or any Restricted Subsidiary of the Borrower has entered into, or may at any time and from time to time enter into, (a) one or more Interest Rate Protection Agreements and/or Other Hedging Agreements with one or more Other Creditors (with each such Interest Rate Protection Agreement and/or Other Hedging Agreement with an Other Creditor being herein called a "Secured Hedging Agreement") or (b) one or more Secured Cash Management Agreements;

WHEREAS, in connection with the Credit Agreement, the Secured Hedging Agreements and the Secured Cash Management Agreements, the Borrower and the Subsidiary Guarantors have entered into a U.S. Subsidiary Guaranty dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, including as supplemented by this Guaranty Supplement, the "Guaranty"), in favor of the Administrative Agent for the benefit of the Secured Creditors;

WHEREAS, Section 9.09(c) of the Credit Agreement requires the Additional Guarantor to execute and deliver this Guaranty Supplement to the Administrative Agent, and the Additional Guarantor has agreed to execute and deliver this Guaranty Supplement to the Administrative Agent;

NOW, THEREFORE, IT IS AGREED:

SECTION 1. <u>Defined Terms</u>. Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Credit Agreement or the Guaranty.

SECTION 2. <u>Guaranty</u>. The Additional Guarantor hereby irrevocably, absolutely and unconditionally, jointly and severally with the other Guarantors, guarantees as primary obligor and not merely as surety, the Guaranteed Obligations (as defined in Section 1 of the

Exhibit A-1

Guaranty). The Additional Guarantor understands, agrees and confirms that the Secured Creditors may enforce the Guaranty up to the full amount of the Guaranteed Obligations against such Additional Guarantor without proceeding against the Borrower, any other Guarantor and/or any other Subsidiary of the Borrower against any security for the Guaranteed Obligations, or under any other guaranty covering all or a portion of the Guaranteed Obligations. Additionally, the Additional Guarantor hereby unconditionally, absolutely and irrevocably, jointly and severally with the other Guarantees the payment by the Borrower of any and all Guaranteed Obligations whether or not due or payable upon the occurrence in respect of the Borrower of any of the events specified in Section 11.05 of the Credit Agreement, and unconditionally and irrevocably, jointly and severally with the other Guarantors, promises to pay such Guaranteed Obligations to the Secured Creditors, or order, on demand. The Guaranty shall constitute a guaranty of payment and not of collection.

SECTION 3. Obligations Under the Guaranty. The undersigned hereby agrees, as of the date first above written, to be bound as a Guarantor by all of the terms and conditions of the Guaranty to the same extent as each of the other Guarantors thereunder. The undersigned further agrees, as of the date first above written, that each reference in the Guaranty to an "Additional Guarantor" or a "Guarantor" shall also mean and be a reference to the undersigned, and each reference in any other Credit Document to a "Guarantor" or a "Subsidiary Guarantor" shall also mean and be a reference to the undersigned.

SECTION 4. <u>Representations</u>, <u>Warranties and Covenants</u>. The undersigned hereby (a) makes each representation and warranty set forth in Section 11 of the Guaranty and (b) undertakes each covenant obligation set forth in the Guaranty, in each case to the same extent as each other Guarantor.

SECTION 5. Governing Law. THIS GUARANTY SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Exhibit A-2

	Very truly yours,
	[NAME OF ADDITIONAL GUARANTOR]
	By:
	Name: Title:
	Notice Address:
Exhibit A-3	
LAMOR A-3	

IN WITNESS WHEREOF, the undersigned has caused this Guaranty Supplement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

FORM OF SHARE PLEDGE AGREEMENT

[NAME OF COMPANY]

THIS SHARE PLEDGE AGREEMENT, dated as of [] [], 20[] (this " <u>Agreement</u> "), is made by [], a
organized and existing under the laws of [] (the "Pledgor"), and Citibank, N.A. ("Citibank"), as the par	ri passu
collateral agent (the "Pari Passu Collateral Agent") for the Pari Pa	ssu Secured Parties (as defined below) (together with its successor	ors and
assigns, in such capacity, the "Pledgee").		

Capitalized terms used herein shall have the respective meanings set forth on Annex A hereto and except as otherwise defined herein, capitalized terms defined in the Intercreditor Agreement shall have the same meaning when used herein.

PRELIMINARY STATEMENTS:

(1) [The Pledgor is the record and beneficial owner of [] percent ([]%) of the i	ssued and outstanding shares of
common stock (the "Pledged Shares") of [], a [] organized and existing under t	the laws of [] (the "
Company "). The Company has an authorized share capital of [] shares of [no] par value [US\$[] each], and as at the date of this
Agreement [] shares of the Company are issued and outstandin	ng]. ¹	

- (2) Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (together with its successors and permitted assigns, the "<u>Borrower</u>") is party to the Revolving Credit Agreement pursuant to which the lenders from time to time party thereto have made available to the Borrower an extension of credit in the form of loans and letters of credit in the aggregate principal amount of Five Hundred Million United States Dollars (US\$500,000,000).
- (3) The Borrower is party to the Term Loan Agreement pursuant to which the lenders from time to time party thereto have advanced to the Borrower a term loan in the aggregate principal amount of Seven Hundred Fifty Million United States Dollars (US\$750,000,000).
- (4) The Borrower is party to the Indenture pursuant to which the Borrower, as issuer, has issued Seven Hundred Fifty Million United States Dollars (US\$750,000,000), aggregate principal amount of 5.375% senior secured notes due 2020 (the "Notes").
- (5) The Pledgor has executed its (x) Subsidiary Guaranty, as defined in the Revolving Credit Agreement (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guaranty (as defined in the Indenture) (the "Note Guarantee"), and (z) Subsidiary Guaranty, as defined in the Term Loan Agreement (the "Term Loan Agreement Guarantee and the Note Guarantee, the "Guarantees")

Revise recital as necessary to accurately describe the capital stock being pledged.

whereby the Pledgor has guaranteed the obligations of the Borrower under the Revolving Credit Agreement, the Term Loan Agreement and the Indenture, respectively. The Pledgor will receive substantial, direct and indirect, benefits through the extension of the loans under the terms of the Credit Facilities and related documents; and in consideration of such benefit and other good and valuable consideration and to secure its obligations under the Guarantees, the receipt and sufficiency of which are hereby acknowledged, the Pledgor has executed this Agreement.

- (6) In accordance with the terms of the Intercreditor Agreement, the parties thereto have, inter alia, agreed to certain matters relating to this Agreement, and the Credit Facilities.
- (7) It is a condition under the respective terms of the Credit Facilities that the Pledger pledges to the Pledgee all of the Pledged Shares.
- (8) The Pledgor has duly authorized the execution and delivery of this Agreement in order to secure the payment in full of the Pari Passu Obligations and to secure the performance and observance of all agreements, covenants and provisions by the Pledgor contained in this Agreement (collectively, the "Obligations").
- NOW, THEREFORE, to secure the prompt payment and performance of the Obligations and the performance and observance of all agreements, covenants and provisions contained herein, the Pledgor hereby agrees as follows:
- SECTION 1. <u>Pledge</u>. The Pledgor hereby pledges to the Pledgee, and grants to the Pledgee a security interest in, the following (the "<u>Pledged Collateral</u>"):
 - (a) the Pledged Shares of the Company and the certificates representing such Pledged Shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Pledged Shares:
 - (b) all additional shares of stock of the Company that may from time to time be acquired by the Pledgor in any manner, and the certificates representing such additional shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such additional shares; and
 - (c) any proceeds of any of the forgoing.

Promptly upon receipt of any additional shares and certificates representing such shares referred to in paragraph (b) above, the Pledgor will deliver such shares to the Pledgee in pledge hereunder.

SECTION 2. Security for Obligations . This Agreement secures the payment and performance of the Obligations.

SECTION 3. Delivery of Pledged Collateral. The Pledgor herewith delivers to the Pledgee:

- (a) the Pledged Shares, together with a fully completed, undated stock power, substantially in the form attached hereto as Exhibit A, executed by the Pledger duly evidencing the transfer of the Pledged Shares to, and in the name of, the Pledgee or of a nominee for, and chosen by, the Pledgee;
- (b) evidence satisfactory to the Pledgee that the share register of the Company has noted on it the existence of the security created by this Agreement over the Pledged Collateral.

The Pledgor agrees to take the same action with respect to any further shares of stock constituting Pledged Collateral forthwith upon the receipt thereof by the Pledgor.

SECTION 4. Representations, Warranties and Covenants of the Pledgor . The Pledgor represents and warrants as follows:

- (a) The Pledgor is a [] duly organized, validly existing and in good standing under the laws of []. The execution, delivery and performance by the Pledgor of this Agreement (i) are within the Pledgor's [] powers and have been duly authorized by all necessary [] action, (ii) do not contravene the Pledgor's constitutional documents or any law or any contractual restriction binding on or affecting the Pledgor, (iii) do not require any authorization or approval (including exchange control approval) or other action by, or any notice to or filing with, any governmental authority and (iv) except for the liens created by this Agreement, do not result in or require the creation or imposition of any lien upon or with respect to any of the properties or assets of the Pledgor or the Company. This Agreement is the legal, valid and binding obligation of the Pledgor enforceable against the Pledgor in accordance with its terms, except as (i) the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and (ii) rights of acceleration, if applicable, and the availability of equitable remedies may be limited to equitable principles of general applicability (regardless of whether enforcement is sought in equity or at law).
- (b) There is no tax, levy, impost, deduction, charge or withholding imposed by the jurisdiction of formation of the Pledgor either (i) on or by virtue of the execution, delivery or performance of this Agreement or any other document to be furnished hereunder or (ii) on any payment to be made by the Pledgor pursuant to this Agreement.
- (c) The Pledged Shares have been duly authorized and validly issued and are fully paid and non-assessable; the Pledger is the legal and beneficial owner of the Pledged Shares free and clear of any lien, security interest, option or other charge or encumbrance or preferential arrangement except for the security interest created by this Agreement. The pledge of the Pledged Shares pursuant to this Agreement creates a valid and duly perfected first priority pledge of and security interest in the Pledged Shares, securing the payment and performance of the Obligations and performance and observance of all agreements, covenants and provisions contained in this Agreement.

- (d) The Pledged Shares constitute the only issued and outstanding shares of stock of the Company, are common stock, have been duly authorized, are fully paid and non-assessable, are legally and beneficially owned and registered on the books of the Company as owned by the Pledger, and evidenced by the certficate(s) delivered to the Pledgee herewith.
 - (e) The statements contained in Preliminary Statements (1) (8) hereof are true, correct and complete.
- (f) If an Event of Default shall have occurred and be continuing, at the written request of the Pledgee, the Pledger agrees to cause its Pledged Shares to be duly registered on the books of the Company in the name of the Pledgee or as otherwise directed in writing by the Pledgee.

SECTION 5. <u>Further Assurances</u>. The Pledgor agrees that at any time and from time to time, at the expense of the Pledgor, the Pledgor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that the Pledgee may request, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Pledgee to exercise and enforce its rights (including, without limitation, the registration of the Pledged Collateral in the name of the Pledgee or its nominee) and remedies hereunder with respect to any Pledged Collateral, such exercise to be subject to Section 9(a) hereof.

SECTION 6. Voting Rights; Dividends; Etc.

- (a) <u>Irrevocable Proxy</u>. The Pledgor hereby agrees to grant, and does hereby grant, to the Pledgee for the benefit of the Pledgee, an irrevocable proxy in the form attached hereto as Exhibit B to (i) vote or cause to be voted any and all of the Pledged Shares and (ii) give or cause to be given consents, waivers and ratifications in respect thereof. Such proxy shall be valid until payment and performance in full of the Obligations. The Pledgee hereby agrees that until and unless an Event of Default shall have occurred and be continuing and the Pledgee shall have given notice to the Pledgor of the Pledgee's intention to exercise remedies, the Pledgee shall not exercise such proxy and, subject always to the provisions of Section 7 hereof, the Pledgor shall be entitled to (i) vote or cause to be voted any and all of the Pledged Shares, (ii) give, or cause to be given, consents, waivers and ratifications in respect thereof, <u>provided</u>, <u>however</u>, that the Pledgor shall not vote for or give any consent, waiver or ratification that would be inconsistent with any provisions of the Pari Passu Documents or that would have a material adverse effect on the value of the Pledged Collateral or any part thereof and (iii) receive and retain any and all dividends, interest and other distributions paid in respect of the Pledged Collateral. All such rights of the Pledgor to vote, or cause to be voted and to give, or cause to be given, consent, waivers and ratifications shall cease automatically in case an Event of Default shall occur and so long as it is continuing and the Pledgee shall have given notice to the Pledgor of the Pledgee's intention to exercise remedies. The Pledgor further agrees to execute the irrevocable proxy in the form attached hereto in Exhibit B.
- (b) So long as an Event of Default shall have occurred and be continuing, upon the Pledgee's written request, the Pledgor shall deliver, or permit to be delivered, and shall

instruct the Company to deliver, to the Pledgee to such account as the Pledgee may from time to time designate in writing, any and all dividends paid in respect of the Pledged Collateral, <u>provided</u>, <u>however</u>, that so long as an Event of Default shall have occurred and be continuing, any and all

- (i) dividends paid or payable other than in cash in respect of, and instruments and other property received, receivable or otherwise distributed in respect of, or in exchange for, any Pledged Collateral;
- (ii) dividends and other distributions paid or payable in cash in respect of any Pledged Collateral in connection with a partial or total liquidation or dissolution or in connection with a reduction of capital, capital surplus or paid-in-surplus; and
 - (iii) cash paid, payable or otherwise distributed in redemption of, or in exchange for, any Pledged Collateral,

upon the Pledgee's written request, shall be, and shall be forthwith delivered to the Pledgee to hold as, Pledged Collateral and shall, if received by the Pledgor, be received in trust for the benefit of the Pledgee, be segregated from the other property or funds of the Pledgor, and be forthwith delivered to the Pledgee as Pledged Collateral in the same form as so received (with any necessary endorsement), to be applied as provided in and pursuant to this Agreement and the Credit Agreement. All dividends which are received by the Pledgor contrary to the provisions of this Section 6(b) shall be received in trust for the benefit of the Pledgee, shall be segregated from other funds of the Pledgor, and shall be forthwith paid over to the Pledgee as Pledged Collateral in the same form as so received (with any necessary endorsement).

- SECTION 7. <u>Transfers and Other Liens</u>; <u>Additional Shares</u>. (a) The Pledgor agrees that it will not (i) sell or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral, except as permitted under the Pari Passu Documents, or (ii) create or permit to exist any lien, security interest, or other charge or encumbrance or preferential arrangement upon or with respect to any of the Pledged Collateral, except for the security interests under this Agreement.
- (b) The Pledgor agrees that it will cause the Company not to issue any stock or other securities whatsoever, whether in addition to or in substitution for the Pledged Shares, or any other issued or authorized shares of the Company, without the Pledgee's prior written consent, except for Pledged Shares in favor of the Pledgor that are pledged hereunder.
- SECTION 8. <u>Pledgee May Perform.</u> (a) If the Pledgor fails to perform any agreement contained herein, the Pledgee may itself perform, or cause performance of, such agreement, and such performance shall not relieve the Pledgor of any default in respect of the Pledgor's failure and the expenses of the Pledgee incurred in connection therewith shall be payable by the Pledgor under Section 10 hereof.
- (b) The Pledgee shall hold the Pledged Collateral in accordance with its standard practices for holding such property, it being understood that the Pledgee shall not have any responsibility for (i) ascertaining or taking action with respect to calls, conversions,

exchanges, maturities, tenders or other matters relating to any Pledged Collateral, whether or not the Pledgee has or is deemed to have knowledge of such matters, or (ii) taking any necessary steps to preserve the rights against any parties with respect to any Pledged Collateral.

SECTION 9. Events of Default and Remedies. (a) Notwithstanding anything to the contrary stated herein, the Pledgee shall not exercise any of the remedies set forth in this Agreement unless and until an Event of Default has occurred and is continuing.

- (b) If an Event of Default shall have occurred and be continuing:
- (i) The Pledgee may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein or in the Pari Passu Documents, as the case may be or otherwise available to it, all the rights and remedies of a secured party on default under the law of the State of New York or any other applicable law in effect at that time. The Pledgee may also, without notice except as specified below, sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Pledgee's offices or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Pledgee may deem commercially reasonable, provided that at least ten (10) days' prior written notice of the time and place of any such sale shall be given to the Pledger. The Pledgee shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Pledgee may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.
- (ii) Any cash held by the Pledgee as Pledged Collateral and all cash proceeds received by the Pledgee in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Pledgee, be held by the Pledgee as collateral for, and/or then or at any time thereafter applied (after payment of any amounts payable to the Pledgee pursuant to Section 10) in whole or in part by the Pledgee against, all or any part of the Obligations in accordance with the terms of the Intercreditor Agreement. Any surplus of such cash or cash proceeds held by the Pledgee and remaining after payment and performance in full of the Obligations shall be paid over to the Borrower or its order.

SECTION 10. Expenses. The Pledgor will upon demand pay to the Pledgee the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, that the Pledgee may reasonably incur in connection with (i) the administration of this Agreement, (ii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral, (iii) the exercise or enforcement of any of the Pledgee hereunder or (iv) the failure by the Pledgor to perform or observe any of the provisions hereof.

SECTION 11. <u>Security Interest Absolute</u>. All rights of the Pledgee and security interests hereunder, and all obligations of the Pledgor hereunder, shall be absolute and

unconditional irrespective of (i) any lack of validity or enforceability of any Pari Passu Document or any other agreement or instrument delivered pursuant or relating thereto, (ii) any amendment to any Pari Passu Document or any other agreement or instrument delivered pursuant or relating thereto, or (iii) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Pledgor in respect of the Obligations or this Agreement.

SECTION 12. <u>Amendments, Etc.</u> No amendment or waiver of any provision of this Agreement nor consent to any departure by the Pledgor herefrom shall in any event be effective unless the same shall be in writing and signed by the Pledgee, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

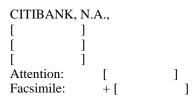
SECTION 13. <u>Addresses for Notices</u>. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party at:

(a) in the case of the Pledgor:

[]		
[]		
[]		
[]		
Attention:		[]
Facsimile:		+ [

(b) in the case of the Pledgee:

Citibank, N.A., as Pari Passu Collateral Agent



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved

by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

SECTION 14. Continuing Security Interest. This Agreement shall create a continuing security interest in the Pledged Collateral and shall (i) remain in full force and effect until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, (ii) be binding upon the Pledger, its successors and assigns, and (iii) inure to the benefit of the Pledgee on behalf of the Pari Passu Secured Parties and the Pledgee's successors and such transferees and assigns as may be permitted under the Pari Passu Documents. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the Pledgor shall be entitled to the return, upon its request and at its expense, to the Borrower on behalf of the Pledgor of such of the Pledged Collateral as shall not have been sold or otherwise applied pursuant to the terms hereof.

SECTION 15. GOVERNING LAW.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK. IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, PLEDGOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS, PLEDGOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER PLEDGOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER PLEDGOR. PLEDGOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 13 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. PLEDGOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST PLEDGOR IN ANY OTHER JURISDICTION.

- (b) PLEDGOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN PARAGRAPH (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- SECTION 16. <u>Counterparts</u>. This Agreement may be executed by the parties hereto on separate counterparts, each of which shall constitute one and the same instrument.
- SECTION 17. <u>Severability</u>. Invalidity, unenforceability, or invalidation of any one or more of the provisions of this Agreement for any reason shall in no way affect any other provisions hereof, which other provisions shall remain in full force and effect.
- SECTION 18. Entire Agreement. This Agreement embodies the entire agreement and understanding among the parties hereto and supersedes all prior agreements and understandings related to the subject matter hereof.
- SECTION 19. Conflict. In the event of a direct conflict between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Agreement sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Agreement as not being in direct conflict with the Intercreditor Agreement. The Pari Passu Collateral Agent shall have all the benefits, indemnities, powers, privileges, protections and rights contained in the Intercreditor Agreement (including for the avoidance of any doubt, Article III of the Intercreditor Agreement) in connection with acting in its capacity as Pledgee hereunder

[The remainder of this page has been left intentionally blank.]

IN WITNESS WHEREOF each of the parties hereto has caused this Share Pledge Agreement to be duly executed and delivered by its officer or attorney-in-fact thereunto duly authorized as of the date first above written.

PLEDGOR
[NAME OF PLEDGOR]
By: Name: Title:
<u>PLEDGEE</u>
CITIBANK, N.A., as Pari Passu Collateral Agent
By: Name: Title:

[Signature Page to Share Pledge Agreement]

ANNEX A

- 1.1 Definitions: In this Agreement, unless the context otherwise requires:
 - "Credit Facilities" means the Revolving Credit Agreement, the Term Loan Agreement and the Indenture.
- "Indenture" means that certain Indenture dated as of the date hereof, among the Borrower, as issuer, the guarantors from time to time party thereto, and the Trustee, as the same has been and may be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- "Intercreditor Agreement" means that certain Intercreditor Agreement dated as of June 3, 2013, by and among the Pari Passu Collateral Agent, the Trustee, the Revolving Credit Agent, the Term Loan Agent, the Borrower, the Pledgor and each other Grantor, as it may be amended, restated, supplemented or otherwise modified in accordance with its terms, including pursuant to the Joinder Agreements.
- "Revolving Credit Agreement" means that certain Credit Agreement, dated as of June 3, 2013, among the Borrower, as borrower, various lenders from time to time party thereto, Citibank N.A., as administrative agent and issuing lender, and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- "Term Loan Agreement" means that certain Term Loan Agreement dated as of the date hereof, among the Borrower, as borrower, the lenders from time to time party thereto, Citibank, N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Term Loan Agent"), and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- 1.2. Other Defined Terms. Except as otherwise defined herein, capitalized terms defined in the Intercreditor Agreement shall have the same meaning when used herein.

EXHIBIT A 2

FORM OF STOCK POWER

represented by the certificate having the certificate number	ny"), standing in the name of the undersigned	and does hereby irrevocably constitute
Dated:		
	[NAME OF PLEDO	GOR]
	By:	
	Name: Title:	
In presence of:		

Witness

Exhibit A-1

Original Counterparts of this Stock Power to be executed will equal the number of Stock Certificates pledged (e.g., one Stock Power per Certificate).

EXHIBIT B

FORM OF IRREVOCABLE PROXY 3

The undersigned hereby constitutes and appoints CITIBANK, N.A., as the Pari Passu Collateral Agent for the Pari Passu Secured Parties,
in its capacity as Pledgee, under the Share Pledge Agreement hereinafter referred to, its attorney and proxy to appear, vote and otherwise act, all
in the name, place and stead of the undersigned in the same manner that the undersigned might do and with the same powers, with respect to all
of the shares of stock of [], a [] (the "Company"), owned or hereafter acquired by the undersigned, at any and all
meetings of shareholders of the Company, on any and all matters, questions and resolutions that may come before such meetings, including, but
not limited to, the election of directors, or at any adjournment or adjournments thereof, or to consent on behalf of the undersigned in the absence
of a meeting to anything that might have been voted on at such a meeting.

This irrevocable proxy is coupled with an interest, is given in connection with a pledge pursuant to a Share Pledge Agreement dated [] [], 20[] (as amended, modified or supplemented, the "Pledge Agreement"), is subject to the rights of the undersigned as a Pledgor set forth in Section 6(a) of the Pledge Agreement and is irrevocable. It shall continue in effect so long as the debt for which the pledge is granted as security remains unpaid.

The attorney and proxy named herein is hereby given full power of substitution and revocation and may act through such agents, nominees or substitute attorneys as it may from time to time appoint.

The powers of such attorney and proxy shall include (without limiting its general powers hereunder) the power to receive and waive any notice of any meeting on behalf of each of the undersigned.

[NAME OF PLEDGOR]

By:			
	Name:		
	Title:		

Exhibit B-1

Original counterparts of this Irrevocable Proxy to be executed will equal the number of Stock Certificates pledged (e.g. one Irrevocable Proxy per Certificate).

	EXI	HB	IT	E
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FORM OF ASSIGNMENT OF INSURANCE PROCEEDS

given by

[],

as the Assignor

in favor of

CITIBANK, N.A.,

as the Assignee

[DATE]

[VESSEL]

THIS ASSIGNMENT OF INSURANCE PROCEEDS (as amended, supplem	nented or otherwise modified from time to time, this "	Assignment
"), dated as of [] [], 20[], is made by [], a [] organized and existing under the laws of [] with its
registered office located at [] (the " <u>Assignor</u> "), in favor of in fa	vor of CITIBANK, N.A., as the pari passu collateral a	agent (the "
Pari Passu Collateral Agent") for the Pari Passu Secured Parties (as defined in	in the Intercreditor Agreement referred to below) (tog	gether with its
successors and assigns in such capacity, the "Assignee").		

WITNESSETH THAT:

		_	_	_		~	
\\\/	Ή	Hì.	v	Hì.	Λ	C	•
v v	11	12	1	11	┑	١,	

	(A) [The Assignor is the sole owner of the whole of the [] registered drillship [] (the " <u>Vessel</u> "), Official
No. []]1;		

(B) The Assignor has entered into a (x) Subsidiary Guaranty as described in the Revolving Credit Agreement (as defined below) (the "Credit Agreement Guarantee"), (y) Subsidiary Guaranty (as defined in the Indenture (as defined below) (the "Note Guarantee")), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (defined below) (the "Term Loan Agreement Guarantee"), and, together with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees") whereby the Assignor has guaranteed the obligations of Pacific Drilling S.A., a Luxembourg corporation organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company") under and in connection with that certain (i) Credit Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among the Company, as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement Agent") and issuing lender, (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"), and (iii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agent"), and (iii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture, and any and all successors thereto (the "Trustee") (the Indenture, the Revolving Credit Agreement and the Term Loan Agreement, are referred to herein as the "Credit Facilities").

(C) In connection with the execution and delivery of the Credit Facilities, the Assignee, the Revolving Credit Agreement Agent, the Term Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto, have entered into the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Intercreditor Agreement"); and

¹ Revise clause as necessary for an Internal Charterer.

- (D) This Assignment is given as security for all of the Pari Passu Obligations (as defined in the Intercreditor Agreement) under the Pari Passu Documents (as defined in the Intercreditor Agreement).
- NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Assignor, the Assignor hereby agrees as follows:
- SECTION 1. <u>Defined Terms</u>. Except as otherwise defined herein, terms defined in the Intercreditor Agreement shall have the same meanings when used herein.
 - "Indenture" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- "Insurances" means policies and contracts of insurance from time to time taken out by or on behalf of the Assignor in respect of the Vessel or its operations including but not limited to (i) hull and machinery (including increased value insurance and war risk insurance) and (ii) loss of hire but excluding Protection and Indemnity insurance.
- "Insurance Proceeds" means all monies payable to the Assignor under or in connection with (i) the Insurances, whether heretofore, now or hereafter effected, and all renewals or replacements for same, and (ii) all claims, returns of premium or other amounts and other moneys due and to become due under or in respect of Insurances.
 - "Intercreditor Agreement" has the meaning ascribed to it in Whereas Clause C of this Assignment.
- "<u>Lien</u>" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, and any lease having substantially the same effect as any of the foregoing).
 - "Revolving Credit Agreement" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- "<u>Security Agreement</u>" means that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.
 - "Term Loan Agreement" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- SECTION 2. <u>Grant of Security</u>. As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Pari Passu Obligations, the Assignor, as legal and beneficial owner, does hereby assign, transfer and set over unto the Assignee, for the benefit of the Pari Passu Secured Parties, and does hereby grant the Assignee, for the benefit of the Pari Passu Secured Parties, a

continuing security interest in, all of the Assignor's right, title and interest in, to and under the following (collectively, the "Assigned Property"): (a) all Insurance Proceeds and (b) all proceeds of the foregoing; provided, however, that notwithstanding anything to the contrary contained in this Section 2, the security interest created by this Assignment shall not extend to, and the term "Assigned Property" shall not include, any Excluded Property (as defined in the Security Agreement).

SECTION 3. <u>Loss Payable Clauses</u>. The Assignor shall ensure that: (a) all Insurances, as such Insurances relate to the Vessel, in respect of hull and machinery (including increased value insurance and war risk) shall contain a loss payable clause in substantially the form attached hereto as Exhibit 1; and (b) all Insurances in respect loss of hire shall contain a loss payable clause in substantially the form attached hereto as Exhibit 2.

SECTION 4. <u>Covenants and Undertakings</u>; <u>Notices</u>. The Assignor hereby covenants with the Assignee and undertakes that: (a) it shall do or permit to be done each and every act or thing which the Assignee may from time to time require to be done for the purpose of enforcing the Assignee's rights under this Assignment and shall allow its name to be used as and when required by the Assignee for that purpose;

- (b) it shall forthwith give notice substantially in the form annexed hereto as Exhibit 3, or cause its insurance brokers to give notice, of this Assignment to all insurers, underwriters, clubs and associations providing the Insurances and request that such notice be endorsed on all the policies and entries of Insurances; and
- (c) as an inducement to the Assignee to accept this Assignment, that (a) the Insurances are in full force and effect and are enforceable in accordance with their respective terms, (b) the Assignor is not in default thereunder, (c) no entity other than the signatories hereto has any interest in any of the Insurances (except any entity which has previously assigned such interest to the Assignee), and (d) it has not assigned, pledged or in any way created or suffered to be created any security interest in the whole or any part of the right, title and interest hereby assigned, except for Liens permitted under the Pari Passu Documents.

SECTION 5. No Duty of Inquiry. The Assignee shall not be obliged to make any inquiry as to the nature or sufficiency of any payment received by it hereunder or to make any claim or take any other action to collect any moneys or to enforce any rights and benefits hereby assigned to the Assignee or to which the Assignee may at any time be entitled hereunder. The Assignor shall remain liable to perform all of its obligations in relation to the Assigned Property and the Assignee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever (including, without limitation, any obligation or liability with respect to the payment of premiums, calls, assessments or any other sums at any time due and owing in respect of the Insurances) in the event of any failure by the Assignor to perform such obligations.

SECTION 6. <u>Power of Attorney</u>. The Assignor does hereby irrevocably appoint and constitute the Assignee as the Assignor's true and lawful attorney-in-fact with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys assigned hereby, to endorse any

checks or other instruments or orders in connection therewith, to file any claims or take any action or institute any proceedings which the Assignee may deem to be necessary or advisable and otherwise to do any and all things which the Assignor itself could do in relation to the Assigned Property. Anything in this Section 6 to the contrary notwithstanding, (a) the Assignee agrees that it will not exercise any rights under the power of attorney provided for in this Section 6 unless an Event of Default shall have occurred and be continuing, and (b) the parties agree that the grant of the power of attorney set forth in this Section 6 shall not be deemed to create an obligation on the part of the Assignee to take any one or more of the actions described herein.

SECTION 7. <u>UCC Filings</u>. The Assignor does hereby authorize the Assignee to do all things the Assignee may deem to be necessary or advisable in order to perfect or maintain the security interest granted by this Assignment including, but not limited to, filing any and all Uniform Commercial Code financing statements or renewals thereof in any applicable jurisdictions. For the avoidance of doubt, nothing herein shall require the Assignee to file any such financing statements or any continuation statements, or be responsible for maintaining the security interests purported to be created by this Assignment (except for the safe custody of any Assigned Property in its possession and the accounting for moneys actually received by it under this Assignment) and such responsibility shall be solely that of the Assignor.

SECTION 8. <u>Application of Proceeds</u>. All moneys collected or received from time to time by the Assignee pursuant to this Assignment shall be applied in accordance with the terms of the Intercreditor Agreement.

SECTION 9. Miscellaneous.

- 9.1 <u>Further Assurances</u>. The Assignor agrees that if this Assignment shall at any time be insufficient in whole or in part to create a valid security interest in the Assigned Property, it shall execute or cause to be executed such other documents or deliver or cause to be delivered such further assurances as may be necessary in order to create a valid security interest in the Assigned Property.
- 9.2 <u>Remedies Cumulative and Not Exclusive; No Waiver</u>. No failure on the part of the Assignee or any Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Assignment shall in any manner impair or affect other security for the Pari Passu Obligations. The rights and remedies of the Assignee provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.
- 9.3 <u>Successors and Assigns</u>. This Assignment and all obligations of the Assignor hereunder shall be binding upon the successors and assigns of the Assignor and shall, together with the rights and remedies of the Assignee hereunder, inure to the benefit of the Assignee and its successors and assigns.

- 9.4 <u>Waiver</u>; <u>Amendment</u>. No amendment, modification or waiver of any provision of this Assignment, and no consent to any departure by the Assignor herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.
- 9.5 <u>Invalidity</u>. Any provision of this Assignment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.
- 9.6. Notices. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party at:

or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written

acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 9.7 <u>Electronic Delivery</u>. Delivery of an executed copy of this Assignment by facsimile or electronic transmission shall be deemed as effective as delivery of an originally executed copy. In the event that the Assignor delivers an executed copy of this Assignment by facsimile or electronic transmission, the Assignor shall also deliver an originally executed copy as soon as practicable, but the failure of the Assignor to deliver an originally executed copy of this Assignment shall not affect the validity or effectiveness of this Assignment.
- 9.8 <u>References</u>. References herein to Sections and Exhibits are to be construed as references to sections of, and exhibits to, this Assignment, unless the context otherwise requires.
- 9.9 <u>Headings</u>. In this Assignment, Section headings are inserted for convenience of reference only and shall not be taken into account in the interpretation of this Assignment.
- 9.10 <u>Termination</u>. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the continuing security interest granted hereby shall terminate and all rights to the Assigned Property shall revert to the Assignor. Upon any such termination, the Assignee will, at the Assignor's sole expense, execute and deliver to the Assignor such documents as the Assignor shall reasonably request to evidence such termination.
- 9.11 <u>Discretion of the Assignee</u>. Notwithstanding anything else to the contrary herein, the Assignee shall not have any duty to take any discretionary action or exercise any discretionary powers; *provided*, *however*, that if the taking or exercise of any such discretionary action could reasonably be expected to expose the Assignee to any loss, liability or expense, the Assignee shall have received, upon request therefor, indemnity or security (or both) satisfactory to it against such loss, liability or expense that might be incurred in connection therewith. Whenever reference is made herein to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Assignee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Assignee, it is understood that in all cases the Assignee shall have no duty and shall be fully justified in failing or refusing to take any such action unless it shall have received written instructions from the Controlling Party.

9.12 Governing Law, Jurisdiction and Waivers .

(a) THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS

ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9.6 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

- (b) ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN SECTION 9.12(a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- 9.13 <u>Conflict.</u> In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

[Signature page follows]

Exhibit E Page 9

	IN WITNESS WHEREOF, the Assignor has caused this Assignment to be executed and delivered as of the day and year first above
written.	

[Signature Page to Assignment of Insurance Proceeds]

[NAME OF ASSIGNOR]
Ву:
Name: Title:

Acknowledged and Agreed to on the day and year first above written:

CITIBANK, N.A., as the Pari Passu Collateral Agent, as Assignee
By:
Name: Title:

[Signature Page to Assignment of Insurance Proceeds]

EXHIBIT 1

FORM OF LOSS PAYABLE CLAUSE

Hull and Machinery (Marine and War Risks)

Loss with respect to [] registered drillship [] (the "Vessel"), Official No. [], if any, shall be payable to the order of CITIBANK, N.A., as the Pari Passu Collateral Agent for itself and certain other Pari Passu Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Pari Passu Collateral Agent"), to such account and/or bank as the Pari Passu Collateral Agent may notify to the Insurer from time to time in writing.

A payment to the Pari Passu Collateral Agent in accordance with this loss payable clause, to the extent of that payment, shall discharge the liability of the insurer to pay the Owner or any other claimant insured party.

Exhibit 1-1

EXHIBIT 2

FORM OF LOSS PAYABLE CLAUSE

Loss of Hire

Loss, if any, shall be payable to the order of CITIBANK, N.A., as the Pari Passu Collateral Agent for itself and certain other Pari Passu Secured Parties (in such capacity, together with its successors and assigns in such capacity, the "Pari Passu Collateral Agent"), for distribution by the Pari Passu Collateral Agent to itself and to [] (the "Owner"), as their respective interests may appear, or order, except that, unless underwriters have been otherwise instructed by notice in writing from the Pari Passu Collateral Agent, the underwriters may pay the proceeds of such insurance directly to the Owner.

A payment to the Pari Passu Collateral Agent in accordance with this loss payable clause, to the extent of that payment, shall discharge the liability of the insurer to pay the Owner or any other claimant insured party.

Exhibit 2-1

EXHIBIT 3

FORM OF NOTICE OF ASSIGNMENT OF INSURANCE PROCEEDS

TO:

TAKE NOTICE:

(a) that by an Assignment of Insurance Proceeds dated as of [] [], 20[] (as amended, supplemented or otherwise to date, the "
Assignment of Insurance Proceeds") made by [] (the "Assignor", "we" or "us"), to CITIBANK, N.A., as the pari passu
collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties (as defined in the Intercreditor Agreement referred to in
the Assignment of Insurances Proceeds) (in such capacity, together with its successors and assigns in such capacity, the "Assignee"), a copy of
which is attached hereto, we have assigned to the Assignee, inter alia, all our right, title and interest in, to and under all monies payable to us
under or in connection with policies and contracts of insurance from time to time taken out by or on behalf of the Assignor in respect of the
[] flag vessel [], Official No. [] (the " <u>Vessel</u> ") or its operations including but not limited to (i) hull and
machinery (including increased value insurance and war risk insurance) and (ii) loss of hire but excluding Protection and Indemnity insurance,
whether heretofore, now or hereafter effected, and all renewals or replacements for same, (iii) all claims, returns of premium or other amounts
and other moneys due and to become due under or in respect of such insurances and (iv) all proceeds of any of the forgoing (collectively, the "
<u>Insurances</u> ");

(b) that you are hereby irrevocably authorized and instructed to pay as from the date hereof all payments under all Insurances in accordance with the loss payable clause attached hereto as Exhibit 1 or Exhibit 2, as applicable, of the Assignment of Insurance Proceeds; and

(c) that you are hereby requested and instructed to endorse the assignment, notice of which is given to you herein, on all policies or entries in respect of the Insurances.

DATED: [●], 20[●]

[Signature Page Follows]

Exhibit 3-1

[], as owner
Ву:	
Name:	
Title:	
[], as []
By:	
Name:	
Title:	

[Add other signatories if appropriate]

FORM OF ASSIGNMENT OF EARNINGS

given by

[],

as the Assignor

in favor of

CITIBANK, N.A.,
as the Assignee

[DATE]

[VESSEL]

THIS ASSIGNMENT OF EARNINGS (as amended, supplemented or otherwise modified from time to time, this "Assignment"), dated as of [] [], 20[], is made by [], a [] organized and existing under the laws of [] with its registered office located at [] (the "Assignor"), in favor of CITIBANK, N.A., as pari passu collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties (as defined in the Intercreditor Agreement referred to below) (together with its successors and assigns in such capacity, the "Assignee").
WITNESSETH THAT:

WHEREAS:

[

(A) [The Assignor is	the sole owner of the whole of the [] registered drillship [] (the "Vessel"), Official No.
ll¹;			

(B) The Assignor has entered into a (x) Subsidiary Guaranty as described in the Revolving Credit Agreement (as defined below) (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guarantee (as defined in the Indenture (as defined below) (the "Note Guarantee")), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (defined below) (the "Term Loan Agreement Guarantee", and, together with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees") whereby the Assignor has guaranteed the obligations of Pacific Drilling S.A., a Luxembourg corporation organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company") under and in connection with that certain (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement Agent"), among the Company, as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement Agent") and issuing lender, (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agreement") and (iii) Indenture, the "Indenture") among the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"):

(C) In connection with the execution and delivery of the Credit Facilities, the Assignee, the Revolving Credit Agreement Agent, the Term Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto, have entered into the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Intercreditor Agreement"); and

¹ Revise clause as necessary for an Internal Charterer.

- (D) This Assignment is given as security for all of the Pari Passu Obligations (as defined in the Intercreditor Agreement) under the Pari Passu Documents (as defined in the Intercreditor Agreement).
- NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the Assignor, the Assignor hereby agrees as follows:
- SECTION 1. <u>Defined Terms</u>. Except as otherwise defined herein, terms defined in the Intercreditor Agreement shall have the same meanings when used herein.
- " <u>Drilling Contract</u>" means any charterparty, pool agreement or drilling contract in respect of the Vessel or other contract for use of the Vessel.
- "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Assignor as a consequence of the operation of the Vessel, including without limitation payments under any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Assignor as a consequence of the operation of the Vessel, (iii) compensation payable to the Assignor in the event of the requisition of the Vessel, (iv) all remuneration for salvage, towage and other services performed by the Vessel and payable to the Assignor, (v) all demurrage and retention money receivable by the Assignor in relation to the Vessel, (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings, (vii) if and whenever the Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel, and (viii) any other money whatsoever due or to become due to the Assignor in relation to the Vessel.
 - "Earnings Account" has the meaning ascribed to it in the Security Agreement.
 - "Excluded Collateral" has the meaning ascribed thereto in the Security Agreement.
 - "Indenture" has the meaning ascribed to it in Whereas Clause B of this Assignment.
 - "Intercreditor Agreement" has the meaning ascribed to it in Whereas Clause C of this Assignment.
 - "Revolving Credit Agreement" has the meaning ascribed to in Whereas Clause B of this Assignment.
- "Security Agreement" means that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.

- "Term Loan Agreement" has the meaning ascribed to it in Whereas Clause B of this Assignment.
- "Vessel" has the meaning ascribed to it in Whereas Clause A of this Agreement.

SECTION 2. <u>Grant of Security</u>. As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Pari Passu Obligations, the Assignor, as legal and beneficial owner, does hereby assign, transfer and set over unto the Assignee, for the ratable benefit of the Pari Passu Secured Parties, and does hereby grant the Assignee, for the ratable benefit of the Pari Passu Secured Parties, a continuing security interest in, all of the Assignor's right, title and interest in, to and under the following (collectively, the "<u>Assigned Property</u>"): (i) all Earnings and (ii) all proceeds of Earnings; <u>provided</u>, <u>however</u>, that notwithstanding anything to the contrary contained in this Section 2, the security interest created by this Assignment shall not extend to, and the term "Assigned Property" shall not include, any Excluded Collateral.

SECTION 3. <u>Notice of Assignment</u>. Within 10 Business Days of the date of this Assignment, in connection with any existing Drilling Contract, and promptly upon its entry into any new Drilling Contract, the Assignor shall give notice, substantially in the form attached hereto as Exhibit 1, of this Assignment to the counterparty to such Drilling Contract.

SECTION 4. Performance under Drilling Contracts; No Duty of Inquiry. The Assignor hereby covenants and undertakes that, notwithstanding the assignment herein contained, it shall punctually perform all its obligations under all Drilling Contracts, to which it is a party. It is hereby expressly agreed that, anything contained herein to the contrary notwithstanding, the Assignor shall remain liable under all Drilling Contracts to which it is a party and shall perform its obligations thereunder, and the Assignee shall have no obligation or liability under any such Drilling Contract by reason of or arising out of the assignment contained herein, nor shall the Assignee be required to assume or be obligated in any manner to perform or fulfill any obligation of the Assignor under or pursuant to any such Drilling Contract or to make any payment or make any inquiry as to the nature or sufficiency of any payment received by the Assignee, or to present or file any claim or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled hereunder or pursuant hereto at any time or times.

SECTION 5. <u>Power of Attorney</u>. The Assignor does hereby irrevocably appoint and constitute the Assignee as the Assignor's true and lawful attorney-in-fact with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for moneys assigned hereby, to endorse any checks or other instruments or orders in connection therewith, to file any claims or take any action or institute any proceedings which the Assignee may deem to be necessary or advisable and otherwise to do any and all things which the Assignor itself could do in relation to the Assigned Property. Anything in this Section 5 to the contrary notwithstanding, (a) the Assignee agrees that it will not exercise any rights under the power of attorney provided for in this Section 5

unless an Event of Default shall have occurred and be continuing, and (b) the parties agree that the grant of the power of attorney set forth in this Section 5 shall not be deemed to create an obligation on the part of the Assignee to take any one or more of the actions described herein.

SECTION 6. <u>UCC Filings</u>. The Assignor does hereby authorize the Assignee to do all things the Assignee may deem to be necessary or advisable in order to perfect or maintain the security interest granted by this Assignment including, but not limited to, filing any and all Uniform Commercial Code financing statements or renewals thereof in any applicable jurisdictions. For the avoidance of doubt, nothing herein shall require the Assignee to file any such financing statements or any continuation statements, or be responsible for maintaining the security interests purported to be created by this Assignment (except for the safe custody of any Assigned Property in its possession and the accounting for moneys actually received by it under this Assignment) and such responsibility shall be solely that of the Assignor.

SECTION 7. <u>Application of Proceeds</u>. All moneys collected or received from time to time by the Assignee pursuant to this Assignment shall be applied in accordance with the terms of the Intercreditor Agreement.

SECTION 8. Earnings Account . The Assignor shall procure that all Earnings are promptly credited to an Earnings Account.

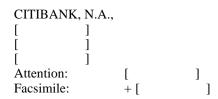
SECTION 9. Miscellaneous.

- 9.1 <u>Further Assurances</u>. The Assignor agrees that if this Assignment shall at any time be insufficient in whole or in part to create a valid security interest in the Assigned Property, it shall execute or cause to be executed such other documents or deliver or cause to be delivered such further assurances as may be necessary in order to create a valid security interest in the Assigned Property.
- 9.2 <u>Remedies Cumulative and Not Exclusive</u>; <u>No Waiver</u>. No failure on the part of the Assignee or any other Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Assignment shall in any manner impair or affect other security for the Pari Passu Obligations. The rights and remedies of the Assignee provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.
- 9.3 <u>Successors and Assigns</u>. This Assignment and all obligations of the Assignor hereunder shall be binding upon the successors and assigns of the Assignor and shall, together with the rights and remedies of the Assignee hereunder, inure to the benefit of the Assignee, its respective successors and assigns.
- 9.4 <u>Waiver; Amendment</u>. No amendment, modification or waiver of any provision of this Assignment, and no consent to any departure by the Assignor herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.

- 9.5 <u>Invalidity</u>. Any provision of this Assignment held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof or thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.
- 9.6 <u>Notices</u>. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); provided, however, that notices and other communications to the Assignee shall not be effective until received by the Assignee. All notices and other communications shall be in writing and addressed to such party at:
 - (a) in the case of the Assignor:

[]		
[]		
[]		
[]		
Attention:		[]
Facsimile:		+ []

(b) in the case of the Assignee:



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

9.7 <u>Electronic Delivery</u>. Delivery of an executed copy of this Assignment by facsimile or electronic transmission shall be deemed as effective as delivery of an originally executed copy. In the event that the Assignor delivers an executed copy of this Assignment by facsimile or electronic transmission, the Assignor shall also deliver an originally executed copy as soon as practicable, but the failure of the Assignor to deliver an originally executed copy of this Assignment shall not affect the validity or effectiveness of this Assignment.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 9.8 <u>References</u>. References herein to Sections and Exhibits are to be construed as references to sections of, and exhibits to, this Assignment, unless the context otherwise requires.
- 9.10 <u>Headings</u>. In this Assignment, Section headings are inserted for convenience of reference only and shall not be taken into account in the interpretation of this Assignment.
- 9.11 <u>Termination</u>. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the continuing security interest granted hereby shall terminate and all rights to the Assigned Property shall revert to the Assignor. Upon any such termination, the Assignee will, at the Assignor's sole expense, execute and deliver to the Assignor such documents as the Assignor shall reasonably request to evidence such termination.
- 9.12 <u>Discretion of the Assignee</u>. Notwithstanding anything else to the contrary herein, the Assignee shall not have any duty to take any discretionary action or exercise any discretionary powers; *provided*, *however*, that if the taking or exercise of any such discretionary action could reasonably be expected to expose the Assignee to any loss, liability or expense, the Assignee shall have received, upon request therefor, indemnity or security (or both) satisfactory to it against such loss, liability or expense that might be incurred in connection therewith. Whenever reference is made herein to any discretionary action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Assignee or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Assignee, it is understood that in all cases the Assignee shall have no duty and shall be fully justified in failing or refusing to take any such action under unless it shall have received written instructions from the Controlling Party (as defined in the Intercreditor Agreement), subject to the proviso set forth in the immediately preceding sentence.

SECTION 10. Governing Law, Jurisdiction and Waivers .

10.1 Governing Law. THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 9.6 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

10.2 ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN SECTION 10.1 ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

10.3 EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

10.4 <u>Conflict.</u> In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

[Signature page follows]

Exhibit F Page 10

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed and delivered on the day and year first above written.

[NAME OF ASSIGNOR]
Ву:
Name:

Title:

[Signature Page to Assignment of Earnings]

Acknowledged and	d Agreed to	on the day	and year	first above	written:

CITIBANK, N.A.,
as the Assignee

By: Name: Title:

[Signature Page to Assignment of Earnings]

FORM OF EARNINGS ASSIGNMENT NOTICE

TO: [Counterparty to Drilling Contract]

TAKE NOTICE:

(a) that by an Assignment of Earnings dated as of [•]	, 20[●] made by us to CITIBAl	NK, N.A., as the Pari Passu Collateral A	Agent (as
defined in the Assignment) for the Pari Passu Secured Parties	(as defined in the Assignment) (to	gether with its successors and assigns i	n such
capacity, the "Assignee"), we, [the owner of the [] registered drillship [] (the " <u>Vessel</u> "), Official No. [$]]^{2},$
have assigned to the Assignee a security interest in all our righ	nt, title and interest in and to:		

- all freight, hire and passage moneys due or to become due to the Assignor as a consequence of the operation of the Vessel, including without limitation payments of any nature under any present or future charterparty, pool agreement or drilling contract in respect of the Vessel or other contract for use of the Vessel;
- (ii) any claim under any guarantee in respect of any charterparty, pool agreement or drilling contract or contract in respect of the Vessel or other contract for use of the Vessel or otherwise related to freight, hire or passage moneys payable to the Assignor as a consequence of the operation of the Vessel;
- (iii) any compensation payable to the Assignor in the event of any requisition of the Vessel;
- (iv) all remuneration for salvage, towage and other services performed by the Vessel and payable to the Assignor;
- (v) all demurrage and retention money receivable by the Assignor in relation to the Vessel;
- (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings;
- (vii) if and whenever the Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel;

Exhibit 1-1

² Revise bracketed language as necessary for an Internal Charterer.

ъ	1 37 - 5	3		
В	ank Name: [J		
A	ddress: []		
A	ccount Name: []		
A	ccount Number: []		
A	BA/Routing: []		
Sv	wift: [
DATED: [•], 20[•]			
				[NAME OF ASSIGNOR]
				By:
				Name:
				Title:
			Exhibit 1-2	

(b) that you are hereby irrevocably authorized and instructed to pay as from the date hereof all of such aforesaid moneys as follows (or to such

any other money whatsoever due or to become due to the Assignor in relation to the Vessel; and

(viii)

(ix)

all proceeds of the foregoing; and

other account as the Assignee may direct from time to time):

FORM OF ASSIGNMENT OF MANAGEMENT AGREEMENT 1

[NAME OF COLLATERAL VESSEL]

	By this Assignment of Management Agreement, dated as of [] [], 20[] (as amended, amended and restated, supplemented
or o	therwise modified from time to time, the "Assignment"), [], a [] organized and existing under the laws of
[] (the "Assignor"), in consideration of One Dollar (\$1.00) lawful money of the United States of America and other good and
valu	able consideration, the receipt of which is hereby acknowledged, has sold, assigned, transferred and set over, and does hereby sell, assign,
tran	sfer and set over unto CITIBANK, N.A., as pari passu collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties
(as o	defined in the Intercreditor Agreement referred to below) (together with its successors and assigns in such capacity, the "Assignee"), in
acco	ordance with the terms of that certain: (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated,
supp	plemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among Pacific Drilling S.A.,
a Lu	exembourg company organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company"),
as b	orrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement
Age	nt") and issuing lender; (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented,
	nanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders
	n time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"); and (iii) Indenture, dated as of June 3,
2013	3 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture")
	ing the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust
Con	npany Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the
Rev	olving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"), pursuant to which the Assignor
	guaranteed the Company's obligations under the Credit Facilities in accordance with the (x) Subsidiary Guaranty as described in the
Rev	olving Credit Agreement (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guarantee (as defined in the Indenture) (the "Note
	rantee"), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (the "Term Loan Agreement Guarantee", and, together
	the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees"), as security for all of the Pari Passu Obligations (as
defi	ned in the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or
	rwise modified from time to time, the "Intercreditor Agreement"), among the Assignee, the Revolving Credit Agreement Agent, the Term
Loa	n Agent, the Trustee, the Company, the Assignor and each other grantor party thereto) under the Pari Passu Documents (as defined in the
	rcreditor Agreement), and unto the Assignee's successors and assigns, to its and its successors' and assigns' own proper use and benefit, in
	or of the Assignee, all the right, title and interest of the Assignor in and to the [Ship Management Agreement] dated as of [, 20] 1
betv	ween the Assignor, as "Owner," and [], a [] as vessel manager (the "Approved Manager"), with respect to the
ſ	l flag vessel

Modify appropriately for any sub-management agreements.

[] (the "Collateral Vessel"), as such management agreement may heretofore or hereafter be amended, amended and restated, or extended or renewed from time to time (the "Management Agreement") in accordance with Section 2 hereof. The rights assigned hereby include without limitation, (i) the Assignor's right to receive all moneys due and to become due under the Management Agreement, all claims for damages arising out of the breach thereof and the right of the Assignor to terminate the Management Agreement, to perform thereunder and to compel performance of the terms thereof; and (ii) all claims for other proceeds in respect of the Management Agreement.

It is agreed by the parties hereto as follows:

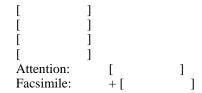
- 1. Except as otherwise defined herein, terms defined in the Intercreditor Agreement shall have the same meanings when used herein
- "Earnings Account" has the meaning ascribed to it in that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.
- "<u>Lien</u>" shall mean with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.
 - "Permitted Liens" shall mean Liens permitted to exist on the rights assigned hereby by the Pari Passu Documents.
- "Ship Mortgage" means that certain First Preferred Mortgage, dated [] [], 20[] by the Assignor, as Owner in favor of the Assignee, as Pari Passu Collateral Agent, as Mortgagee over the Collateral Vessel, as it may be amended, restated, supplemented or otherwise modified from time to time.
- 2. It is expressly agreed that notwithstanding anything herein contained to the contrary, (i) the Assignor shall remain liable under the Management Agreement to perform all the obligations assumed by it thereunder, (ii) if an Event of Default shall have occurred and be continuing, the obligations of the Assignor under the Management Agreement may be performed by the Assignee or its nominee or other designee without releasing the Assignor therefrom, (iii) the Assignee shall have no obligation or liability under the Management Agreement by reason of, or arising out of, this Assignment and shall not be obligated to perform any of the obligations of the Assignor under the Management Agreement, or to make any payment thereunder or to make any inquiry of the sufficiency of any payment received by it, or to present or file any claim or to take any other action to collect or enforce any payment assigned hereunder, (iv) the Assignee shall not be obligated to bring, appear in or defend any action, suit or proceeding respecting this Assignment or the Management Agreement, and (v) the Assignor shall provide the Assignee with a copy of any amendment to the Management Agreement in due course.

- 3. The Assignor represents and warrants that (i) it shall appoint only the Company or any direct or indirect Restricted Subsidiary (as defined in the Pari Passu Documents) of the Company controlled by the Company or any of its Restricted Subsidiaries as manager of the Vessel and shall give notice of this Assignment, substantially in the form of Exhibit A hereto to the Approved Manager and it shall cause the Approved Manager to provide consent to this Assignment substantially in the form of Exhibit B hereto; (ii) the copy of the Management Agreement delivered to the Assignee together with this Assignment is true, correct and complete, (iii) the Approved Manager has no claims against the Assignor under the Management Agreement as of the date hereof, and (iv) there is not now in effect any assignment or pledge of, and hereby covenants that it will not assign, pledge, or suffer to exist any Lien, charge, security interest, or encumbrance, or any other type of preferential arrangement, upon or with respect to, so long as this Assignment shall remain in effect, the whole or any part of the rights hereby assigned, to anyone other than the Assignee, its successors or assigns, other than Permitted Liens.
- 4 The Assignor does hereby appoint the Assignee as such Assignor's true and lawful attorney, irrevocably, with full power (in the name of such Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for money due and to become due under, or arising out of, the Management Agreement or otherwise assigned hereunder, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings in connection therewith. The Assignee agrees not to exercise its powers as attorney-in-fact unless an Event of Default shall have occurred and be continuing. If an Event of Default shall have occurred and be continuing, the Assignee may take or refrain from taking any action hereunder that it believes advisable in its sole discretion. Notwithstanding the power of attorney contained herein, the Assignor shall remain fully liable to perform all of its obligations under the Management Agreement.
- 5. The Assignor further agrees that (i) if the Assignee advises that an Event of Default shall have occurred and be continuing, the Assignee, at the direction of the Controlling Party, shall have the right to terminate the Management Agreement, as the Assignee determines in its sole discretion, upon no fewer than three (3) Business Days prior written notice to the Assignor and the Approved Manager setting forth the effective date of such termination, without such termination giving rise to any claim by the Approved Manager under the Management Agreement or hereunder, other than for services already rendered by the Approved Manager as of the effective date of such termination, (ii) any claim, Lien or security interest arising in favor of the Approved Manager under the Management Agreement against the Collateral Vessel or the Assignor shall be subject and subordinate in all respects to the Lien of the Ship Mortgage and of any other Collateral Agreement in favor of the Assignee, (iii) at the sole option of the Assignee, if the Assignee commences a foreclosure under the Ship Mortgage or enforcement of any other Collateral, the Assignee shall, at the direction of the Controlling Party, have the right to terminate the Management Agreement with respect to such Collateral Vessel and such Lien and divest the Approved Manager and its sub-managers of all right, title and interest in and to, and Liens or claim against, such Collateral Vessel, and (iv) it will advise the Assignee promptly in writing of any outstanding claims that the Approved Manager has against the Collateral Vessel or any other Collateral.

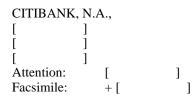
- 6. Notwithstanding anything to the contrary, so long as no Event of Default shall have occurred and be continuing, the Assignor shall be entitled to receive, deposit in the Earnings Account, and retain in accordance with the terms of the Assignment of Earnings any and all moneys otherwise assigned hereunder. If an Event of Default shall have occurred and be continuing, at the request of the Assignee, the Assignor shall specifically authorize and direct the Approved Manager or other obligor to make payment of all of the moneys hereby assigned directly to the Assignee at such place as the Assignee may require, and shall deliver to the Assignee the written acknowledgment of the Approved Manager or other obligor of such instructions.
- 7. The Assignor agrees that at any time and from time to time, upon the written request of the Assignee, the Assignor will promptly and duly execute and deliver any and all such further instruments and documents as the Assignee may reasonably request or as shall be necessary for the Assignee to obtain the full benefits of this Assignment and of the rights and powers herein granted or to perfect the interests assigned to the Assignee hereunder, including, without limitation, the execution and delivery of such notices and Uniform Commercial Code financing and continuation statements and the filing thereof in such jurisdictions as shall be appropriate. To the extent permitted by applicable law, the Assignor hereby authorizes the Assignee to execute and file any such financing or continuation statements without necessity of the signature of the Assignor.
- 8. All moneys collected or received from time to time by the Assignee pursuant to this Assignment shall be applied in accordance with the terms of the Intercreditor Agreement.
- 9. No failure on the part of the Assignee or any other Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Assignment shall in any manner impair or affect other security for the Pari Passu Obligations. The rights and remedies of the Assignee provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.
- 10. This Assignment and all obligations of the Assignor hereunder shall be binding upon the successors and assigns of the Assignor and shall, together with the rights and remedies of the Assignee hereunder, inure to the benefit of the Assignee and its respective successors and assigns.
- 11. Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the Assignee will at the request and cost of the Assignor, promptly reassign the Management Agreement and its interest in and all other rights assigned to the Assignee hereunder to the Assignor or as the Assignor shall direct, without any representation, warranty or recourse by or to the Assignee.
- 12. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by

facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); provided, however, that notices and other communications to the Assignee shall not be effective until received by the Assignee. All notices and other communications shall be in writing and addressed to such party at:

(a) in the case of the Assignor:



(b) in the case of the Assignee:



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

13. Governing Law, Jurisdiction and Waivers.

(a) THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE

COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

- (b) ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN PARAGRAPH (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- 14. Invalidity, unenforceability, or invalidation of any one or more of the provisions of this Assignment for any reason shall in no way affect any other provisions hereof, which other provisions shall remain in full force and effect.
- 15. This Assignment, the other Pari Passu Documents and the documents herein and therein mentioned contain, or expressly incorporate, the entire agreement of the parties with respect to the subject matter hereof. This Assignment may not be altered or amended except by an agreement in writing signed by the Assignee and the Assignor.

- 16. This Assignment, the Notice of Assignment of Management Agreement and the Approved Manager's Consent and Undertaking annexed hereto may be executed by each of the Assignee, the Assignor and the Approved Manager in separate counterparts without in any way adversely affecting the validity hereof or of said Notice of Assignment of Management Agreement or said Approved Manager's Consent and Undertaking.
- 17. In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

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Exhibit G Page 8

IN WITNESS WHEREOF, the Assignor has caused this Assignment of Management Agreement to be duly executed as of the day and year first above written.

	[NAME OF ASSIGNOR], as As	[NAME OF ASSIGNOR], as Assignor	
	By: Name: Title:		
Accepted and Agreed:			
CITIBANK, N.A., as the Pari Passu Collateral Agent, as Assignee			
By: Name: Title:			
[Signature Page to Assignme	nt of Management Agreement]		

FORM OF NOTICE OF ASSIGNMENT OF MANAGEMENT AGREEMENT

Date: [, 20]	
To: []

, 20], (the "Management Agreement"), made between the The undersigned refers to the [Ship Management Agreement dated as of] (the "Approved Manager"), by which the undersigned agreed to hire you as [commercial and] undersigned (the "Assignor") and [technical manager for, and you agreed to provide [commercial and] technical management of, the [] (the "Collateral Vessel") for the period and on the terms and conditions set out in the Management Agreement. Reference is also made to that certain (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among Pacific Drilling S.A., a Luxembourg company organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company"), as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement Agent") and issuing lender; (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"); and (iii) Indenture, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture") among the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the " Credit Facilities"), the related Guarantees and the other Pari Passu Collateral Documents (as each is defined in the Assignment (defined below).

We hereby give you notice of the following, and you by your execution and delivery of the Approved Manager's Consent and Undertaking hereby agree to the following:

1. By an assignment dated as of the date hereof (the "<u>Assignment</u>"; the defined terms used herein and not otherwise defined shall be used herein as therein defined), to which this notice is attached, made between us and the Assignee referred to therein, we have sold, assigned, transferred and set over unto the Assignee, as security for all of the Pari Passu Obligations under the Pari Passu Documents, all our right, title and interest in and to the Management Agreement and in and to all moneys and claims for moneys due and to become due to us thereunder (all as more fully described in the Assignment).

Exhibit A-1

- 2. You are hereby irrevocably authorized and instructed that if the Assignee advises that an Event of Default shall have occurred and be continuing, upon your receipt of written notice from the Assignee, to pay all moneys payable by you under the Management Agreement to such place as the Assignee may from time to time direct.
- 3. The undersigned shall remain liable to perform all its obligations under the Management Agreement, and the Assignee shall not be under any obligation under the Management Agreement, but should the Assignee exercise its right to perform, or cause performance by its nominee or designee of, any of our obligations under the Management Agreement, you agree, without thereby releasing the undersigned from our obligations under the Management Agreement, to accept such performance.
- 4. You consent to the Assignment, and agree if the Assignee advises that an Event of Default shall have occurred and be continuing that, upon receipt of written notice from the Assignee, you will make payment of all moneys due and to become due under the Management Agreement, as the Assignee shall direct in its sole discretion, without setoff or deduction for any claim not arising under the Management Agreement or any other management agreement entered into with you in relation to the Collateral Vessel (the "Managed Vessel"), direct to such account specified by the Assignee at such address as the Assignee shall request in writing until receipt of written notice from the Assignee that all obligations of the Assignor to it have been paid in full. You agree that you shall not seek the recovery of any payment actually made by you to the Assignee pursuant to the Approved Manager's Consent and Undertaking once such payment has been made. You hereby waive the right to assert against the Assignee, as assignee of the Assignor, any claim, defense, counterclaim or setoff other than a claim, defense, counterclaim or set-off that you could assert against the Assignor under the Management Agreement or any other management agreement entered into with you in relation to any of the Managed Vessel. This provision shall not be construed to relieve the Assignor of any liability to the Approved Manager.
- 5. You agree if the Assignee advises that an Event of Default shall have occurred and be continuing that the Assignee shall be entitled to exercise any and all rights and remedies of the Assignor under the Management Agreement in accordance with the terms of the Assignment and you shall comply in all respects with such exercise. You agree that any claim, Lien or security interest that you may have against the Collateral Vessel or Assignor shall be subject and subordinate in all respects to the Lien of the Ship Mortgage on such Collateral Vessel or other Collateral in favor of the Assignee, and, at the option of the Assignee, foreclosure under the Ship Mortgage or enforcement of other Collateral shall terminate the Management Agreement and such Liens and divest you and your sub-managers of all right, title and interest in and to the Collateral Vessel. You agree that each sub-management agreement respecting the Collateral Vessel made between you and any Affiliate (as defined in the Intercreditor Agreement) of the undersigned shall be explicitly made subordinate in all respects to the Lien of the Ship Mortgage.

By your Approved Manager's Consent and Undertaking, you further agree that if the Assignee advises that an Event of Default shall have occurred and be continuing, the

Exhibit A-2

Assignee shall have the right to terminate the Management Agreement, as the Assignee determines in its sole discretion, upon no fewer than three (3) Business Days prior written notice to the Assignor and to you as the Approved Manager setting forth the effective date of such termination, without such termination giving rise to any claim by you as Approved Manager, other than for services already rendered by you as Approved Manager as of the effective date of such termination.

- 6. You covenant and agree with the Assignee that you will (x) clearly record on your books and records notations of the Assignment, and (y) provide the Assignee with a copy of any amendment to the Management Agreement in due course.
- 7. Your Approved Manager's Consent and Undertaking, and your agreements therein contained, are for the benefit of the Assignee and shall be enforceable by the Assignee.
- 8. This Notice of Assignment of Management Agreement shall terminate, and be of no further force and effect, upon the termination of the Assignment (as notified to you by the Assignee).

The authorizations and instructions by us in this Notice of Assignment of Management Agreement cannot be revoked or varied by us without the Assignee's prior written consent.

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Exhibit A-3

[NAME OF ASSIGNOR], as Assignor
Ву:
Name:
Title:

Exhibit A-4

FORM OF APPROVED MANAGER'S CONSENT AND UNDERTAKING

Date: [

, 20]

To: CITIBANK, N.A., as Pari Passu Collateral Agent

We refer to (a) the [Ship Management Agreement dated as of , 20] (the "Management Agreement"), between us, []
(the "Approved Manager"), and [] (the "Assignor"), and (b) the Assignment of Management Agreement dated as of [,
20] (the "Assignment"), made between the Assignor and CITIBANK, N.A., as the Pari Passu Collateral Agent for the Pari Passu Secured	l
Parties (the "Assignee") under the Intercreditor Agreement. Capitalized terms used herein and not otherwise defined herein are used as defin	ned
in, or by reference in, the Assignment.	

In consideration of your agreeing to the execution and delivery of the Management Agreement, and for other good and valuable consideration, the receipt of which is hereby acknowledged, we hereby agree with you as follows:

- 1. We agree to the terms set out in the Assignment, and consent to, and agree to be bound by, such Assignment. Without limitation, we agree that if you as Assignee notify us that an Event of Default shall have occurred and be continuing, we will accept performance of the Management Agreement (solely at your option) from you or your nominee or designee, as long as such performance is made in accordance with the terms of the Management Agreement.
- 2. If the Assignee shall advise us that an Event of Default shall have occurred and be continuing, we covenant and agree with the Assignee that the Assignee shall have the right to terminate the Management Agreement, as the Assignee determines in its sole discretion, upon not fewer than three (3) Business Days prior written notice to the Assignor and to us setting forth the effective date of such termination, without such termination giving rise to any claim by us as Approved Manager, other than for services already rendered by us as Approved Manager as of the effective date of such termination.
- 3. We agree that any claim, Lien or security interest arising in our favor under the Management Agreement against the Collateral Vessel or the Assignor is subject and subordinate in all respects to the Lien of the Ship Mortgage and of any other Collateral Agreement in favor of the Assignee, and, at the sole option of the Assignee, foreclosure under the Ship Mortgage or enforcement of any other Collateral shall terminate the Management Agreement with respect to the Collateral Vessel and such Liens in our favor and divest us and our submanagers of all right, title and interest in and to the Collateral Vessel. We agree that we will not commence arrest proceedings against the Collateral Vessel.

Exhibit B-1

- 4. We will not enter into any sub-management agreement or contract out our obligations under any sub-management agreement to any person in such manner that relieves us of our obligations under the Management Agreement without assigning our rights under such sub-management agreement to the Assignee, such assignment to be substantially in the form of the Assignment of Management Agreement together with Notice and Approved Manager's Undertaking (provided, the provisions described in paragraphs 2 and 3 above shall not be included in any assignment of sub-management agreement or notice or manager's undertaking relating thereto unless the sub-manager is an Affiliate of the Assignor).
- 5. We agree that (i) we will not commence any arbitration, suit or other proceeding against the Assignor under the Management Agreement without the prior written consent of the Assignee, which consent may be withheld in the Assignee's sole discretion, and (ii) if the Assignee notifies us that an Event of Default has occurred and is continuing, we will discontinue any such arbitration, suit or other proceeding.

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Exhibit B-2

For and on behalf of			
[], as Approved Manager		
Ву:			
Name: Title:			

Exhibit B-3

EXHIBIT H

FORM OF ASSIGNMENT OF BAREBOAT CHARTER (INTERNAL CHARTER)

[NAME OF COLLATERAL VESSEL]

By this Assignment of Bareboat Charter, dated as of [

] [], 20[] (as amended, amended and restated, supplemented or otherwise

modified from time to time, the "Assignment"), the undersigned [], a [] organized and existing under the laws of
[] (the "Assignor"), in consideration of One Dollar (\$1.00) lawful money of the United States of America and other good and
valuable consideration, the receipt of which is hereby acknowledged, has sold, assigned, transferred and set over, and does hereby sell, assign,
transfer and set over unto CITIBANK, N.A., as pari passu collateral agent (the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties
(as defined in the Intercreditor Agreement referred to below) (together with its successors and assigns in such capacity, the "Assignee"), in
accordance with the terms of that certain: (i) Credit Agreement, dated as of June 3, 2013 (as the same has been and may be amended, restated,
supplemented, refinanced, replaced or otherwise modified from time to time, the "Revolving Credit Agreement"), among Pacific Drilling S.A.,
a Luxembourg company organized under the form of a société anonyme (together with its successors and permitted assigns, the "Company"),
as borrower, various lenders from time to time party thereto and Citibank N.A., as administrative agent (the "Revolving Credit Agreement
Agent") and issuing lender; (ii) Term Loan Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented,
refinanced, replaced or otherwise modified from time to time, the "Term Loan Agreement"), among the Company, as borrower, the lenders
from time to time party thereto and Citibank, N.A., as administrative agent (the "Term Loan Agent"); and (iii) Indenture, dated as of June 3,
2013 (as the same may be amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time, the "Indenture")
among the Company, as issuer, the subsidiary guarantors party thereto from time to time (including the Assignor) and Deutsche Bank Trust
Company Americas, a New York banking corporation, as trustee, and any and all successors thereto (the "Trustee") (the Indenture, the
Revolving Credit Agreement and the Term Loan Agreement are referred to herein as the "Credit Facilities"), pursuant to which the Assignor
has guaranteed the Company's obligations under the Credit Facilities in accordance with the (x) Subsidiary Guaranty as described in the
Revolving Credit Agreement (the "Revolving Credit Agreement Guarantee"), (y) Subsidiary Guarantee (as defined in the Indenture) (the "Note
Guarantee"), and (z) Subsidiary Guaranty as described in the Term Loan Agreement (the "Term Loan Agreement Guarantee", and, together
with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees"), as security for all of the Pari Passu Obligations (as
defined in the Intercreditor Agreement, dated as of June 3, 2013 (as the same may be amended, restated, supplemented, refinanced, replaced or
otherwise modified from time to time, the "Intercreditor Agreement"), among the Assignee, the Revolving Credit Agreement Agent, the Term
Loan Agent, the Trustee, the Company, the Assignor and each other grantor party thereto) under the Pari Passu Documents (as defined in the
Intercreditor Agreement), and unto the Assignee's successors and assigns, to its and its successors' and assigns' own proper use and benefit, and
does hereby grant to the Assignee a security interest in all the right, title interest, claim and demand of the Assignor in and to:
(i) that certain [Bareboat Charter], dated as of [] [], 20[] (as may be amended, extended, renewed or otherwise modified
from time to time, the "Charter"),
nom time to time, the <u>charter</u> j,

between the Assignor and [], a [] organized and existing unde	er the laws of [], (the "Charterer"), with
respect to the Assignor's [] flag vessel [] (Official No. []) (the " Collateral V	<u>'essel</u> "), including, without
limitation, within such assignmen	t, the right to receive a	ll moneys due and to become	due under the Charter	and all rights arising out of the
owner's lien on cargoes and subfr	eights thereunder, all o	claims for damages arising out	of the breach thereof	and the right of the Assignor to
terminate the Charter, to perform	thereunder and to com	pel performance of the terms t	hereof;	

- (ii) all moneys and claims for moneys due and to become due to the Assignor, and all claims for damages and all insurance and other proceeds in respect of, the actual or constructive loss of, or the requisition (whether of title or use), condemnation, sequestration, seizure, forfeiture or other taking of, the Collateral Vessel; and
- (iii) any proceeds of any of the foregoing and all interest and earnings from the investment of any of the foregoing and the proceeds thereof.

Capitalized terms used herein and not otherwise defined are used herein as defined in the Intercreditor Agreement.

For purposes of this Assignment "<u>Earnings Account</u>" has the meaning ascribed to it in that certain Security Agreement, dated as of June 3, 2013, among the Assignor, each of the other grantors party thereto and the Assignee.

It is expressly agreed that anything herein contained to the contrary notwithstanding, (i) the Assignor shall remain liable under the Charter to perform all the obligations assumed by it thereunder, (ii) if an Event of Default shall have occurred and be continuing, the obligations of the Assignor under the Charter may be performed by the Assignee or its nominee or other assignee from the Assignee without releasing the Assignor therefrom, and (iii) the Assignee shall have no obligation or liability under the Charter by reason of, or arising out of, this Assignment and shall not be obligated to perform any of the obligations of the Assignor under the Charter, or to make any payment or any inquiry of the sufficiency of any payment received by it, or to present or file any claim or to take any other action to collect or enforce any payment assigned hereunder. The Assignor shall provide the Assignee with a copy of any amendment to the Charter in due course.

The Assignor does hereby constitute the Assignee as the Assignor's true and lawful attorney-in-fact, irrevocably, with full power (in the name of the Assignor or otherwise) to ask, require, demand, receive, compound and give acquittance for any and all moneys and claims for money due and to become due under, or arising out of, the Charter or otherwise assigned hereunder, to endorse any checks or other instruments or orders in connection therewith and to file any claims or take any action or institute any proceedings in connection therewith. The Assignee agrees to take any action permitted in the preceding sentence only if an Event of Default shall have occurred and be continuing.

Notwithstanding anything to the contrary, so long as no Event of Default shall have occurred and be continuing, the Assignor shall be entitled to receive into the Earnings Account and retain therein any and all moneys otherwise assigned hereunder. If an Event of Default shall have occurred and be continuing, at the request of the Assignee, the Assignor shall specifically authorize and direct the Charterer or other obligor to make payment of all of the moneys hereby assigned directly to the Assignee in accordance with instructions of the Assignee, and shall deliver to the Assignee the written acknowledgment of the Charterer or obligor of such instructions.

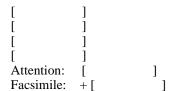
The Assignor hereby irrevocably authorizes the Assignee, at such Assignor's expense, to file, at any time and from time to time, such financing and continuation statements or papers of similar purpose or effect relating to this Assignment, without such Assignor's signature, as the Assignee at its option may deem appropriate, and hereby appoints the Assignee as such Assignor's attorney-in-fact to execute any such statement in such Assignor's name and to perform all other acts which the Assignee may deem appropriate to perfect and continue the security interests conferred hereby; provided, however, such right and assignment of power shall not constitute a duty of the Assignee, and the Assignor shall have the duty to file all necessary financing and continuation statements to perfect the security interest granted herein.

The Assignor does hereby represent and warrant that, to the best of its knowledge, the Charterer has no claims against the Assignor under the Charter as of the date hereof. The Assignor does hereby further represent and warrant that there is not now in effect any assignment or pledge of, and hereby covenants that the Assignor will not, so long as this instrument of Assignment shall remain in effect, assign, pledge, or suffer to exist any lien, charge, security interest, or encumbrance, or any other type of preferential arrangement, upon or with respect to the whole or any part of the rights hereby assigned, to anyone other than the Assignee, its successors or assigns.

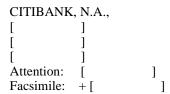
Upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, the Assignee will at the request and cost of the Assignor, reassign the Charter and its interest in and all other rights assigned to the Assignee hereunder to the Assignor or as the Assignor shall direct, without any representation, warranty or recourse by or to the Assignee.

All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient); provided, however, that notices and other communications to the Assignee shall not be effective until received by the Assignee. All notices and other communications shall be in writing and addressed to such party at:

(a) in the case of the Assignor:



(b) in the case of the Assignee:



or in any case at such other address as such party may hereafter notify the other party hereto in writing.

Any party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

THIS ASSIGNMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS ASSIGNMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS ASSIGNMENT, ASSIGNOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. ASSIGNOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS ASSIGNMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ASSIGNOR. ASSIGNOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES SET FORTH HEREIN, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY

OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ASSIGNOR IN ANY OTHER JURISDICTION.

ASSIGNOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS ASSIGNMENT BROUGHT IN THE COURTS REFERRED TO IN THE IMMEDIATELY PRECEDING PARAGRAPH AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Invalidity, unenforceability, or invalidation of any one or more of the provisions of this Assignment for any reason shall in no way affect any other provisions hereof, which other provisions shall remain in full force and effect.

This Assignment, the other Pari Passu Documents and the documents herein and therein mentioned contain, or expressly incorporate, the entire agreement of the parties with respect to the subject matter hereof. This Assignment may not be altered or amended except by an agreement in writing signed by the Assignee and the Assignor.

This Assignment and the Agreement and Consent to Assignment annexed hereto may be executed by the Assignee, the Assignor and the Charterer under the Charter in separate counterparts without in any way adversely affecting the validity of said Agreement and Consent to Assignment. [Prior to or simultaneously with entering into the Charter, the Assignor has caused the Charterer to execute and deliver to the Assignee such Agreement and Consent to Assignment.] ¹

In the event of a direct conflict between this Assignment and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Assignment sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Assignment as not being in direct conflict with the Intercreditor Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

This sentence to be inserted only in Assignments related to Charters executed after the Closing Date.

IN WITNESS WHEREOF, the Assignor has caused this instrument of Assignment to be duly executed as of the day and year first above written.

	[NAME OF ASSIGNOR], as Assignor	
	By: Name:	
	Title:	
The terms and conditions of his Assignment are hereby		
ACCEPTED BY:		
CITIBANK, N.A., as the Pari Passu Collateral Agent, s Assignee		
Ву:		
Name: Title:		
[Signature Page to A	assignment of Bareboat Charter (Internal Charter)]	

FORM OF NOTICE OF ASSIGNMENT OF BAREBOAT CHARTER

and

FORM OF AGREEMENT AND CONSENT TO ASSIGNMENT

Dated: [

, 20]

To: [Charterer]	
Re: [Collateral Vessel]	
We refer to the Bareboat Charter, dated as of [] [], 20[] (the " <u>Charter</u> "), made between us, [], (the " <u>Assignor</u> " or " <u>w</u> "), and you, [Charterer] (the " <u>Charterer</u> " or " <u>you</u> "), by which we agree to let, and you agree to take on charter the [] flag vessel [] (the " <u>Collateral Vessel</u> ") for the period and on the terms and conditions set out in the Charter.	2

We hereby give you notice of the following, and you by your execution and delivery of this Agreement and Consent to Assignment (this "Consent") hereby agree to the following:

- 1. By an assignment (the "Assignment", the defined terms therein being used herein and not otherwise defined shall be used herein as therein defined), dated as of [] [], 20[], (a copy of which is attached hereto) made between us and the Assignee referred to therein, we have sold, assigned, transferred and set over unto the Assignee all our right, title and interest in and to the Charter and in and to moneys and claims for moneys due and to become due to us under the Charter (all as more fully described in the Assignment).
- 2. You are hereby irrevocably authorized and instructed to make all payments due by you in accordance with the terms of the Charter to [insert Earnings Account instructions].
- 3. Upon your receipt of written notice of the occurrence of an Event of Default from the Assignee, you are hereby irrevocably authorized and instructed to pay, and agree that you will make payment of, all such moneys payable by you under the Charter to such place as the Assignee may from time to time direct.
- 4. We shall remain liable to perform all our obligations under the Charter and the Assignee shall not be under any obligation under the Charter, but should the Assignee exercise its right to perform, or cause performance by its nominee or designee of, our obligations under the Charter, you agree, without thereby releasing us from our obligations under the Charter, to accept such performance.

Exhibit A-1

- 5. You consent to the Assignment, and agree that you will make payment of all moneys due and to become due under the Charter, without setoff or deduction for any claim not arising under the Charter, direct to the account set forth in paragraph 2 hereof, and otherwise if the Assignee has given you a written notice of the occurrence of an Event of Default, to such account specified by the Assignee at such address as the Assignee shall request the undersigned in writing, in each case until receipt of written notice from the Assignee that all obligations of the Assignor to it have been paid in full. You agree that you shall not seek the recovery of any payment actually made by you to the Assignee pursuant to this Charterer's Consent and Agreement once such payment has been made. You hereby waive the right to assert against the Assignee, as assignee of the Assignor, any claim, defense, counterclaim or setoff other than a claim, defense, counterclaim or setoff that you could assert against the Assignor under the Charter. These provisions shall not be construed to relieve the Assignor of any liability to the Charterer.
- 6. You agree that if the Assignee gives you written notice that an Event of Default has occurred and is continuing, the Assignee shall be entitled to exercise any and all rights and remedies of the Assignor under the Charter in accordance with the terms of the Assignment, and you shall comply in all respects with such exercise.
- 7. You agree that you will not, until the termination of the Assignment, acknowledge and consent to any other assignment by us of any of the whole or any part of our right, title and interest in and to the Charter and in and to moneys and claims for moneys due and to become due to us under the Charter without the written consent of the Assignee.
- 8. You may rely on any written notice given by the Assignee to you as being properly given under the terms of the Assignment and this Consent, even if we notify you that such written notice is not validly given.
- 9. You covenant and agree with the Assignee that you will (i) clearly record on your books and records notations of the Assignment, and (ii) provide the Assignee with a copy of any amendment to the Charter in due course.
- 10. Your acknowledgement and consent hereunder, and your agreements herein contained, are for the benefit of the Assignee and shall be enforceable by the Assignee.
- 11. This Consent shall terminate, and be of no further force and effect, at the earlier of the termination of (i) the Assignment (as notified to you by the Assignee) or (ii) the Charter.

The authorizations and instructions by us in this Consent cannot be revoked or varied by us without the Assignee's prior written consent.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

Exhibit A-2

For and on behalf of	
[ASSIGNOR]	
By: Name: Title:	
Dated:	

Dated:	, 20
Γο: [Ass	ssignor]
Γο: CIT	TIBANK, N.A., as the Pari Passu Collateral Agent and as Assignee
	consideration of the Charter, and for other good and valuable consideration, the receipt of which is hereby acknowledged, we hereby gree to the terms set out above and hereby consent to, and agree to be bound by, the foregoing Agreement and Consent to Assignment.
ho ha lin en ari pro fav	or the benefit of the Assignee, the Charterer irrevocably waives and disclaims any lien that it may have on the Collateral Vessel, owsoever and whensoever arising, and irrevocably agrees that any claim against the Collateral Vessel that the Charterer may or could ave is subject and subordinate always to the claims of the Assignee and the Lenders under any Collateral Agreement including, but not mited to, the Mortgagee under the Ship Mortgage (as defined below) on the Collateral Vessel, provided further that the creation or afforcement by the Charterer of any maritime lien (other than Liens permitted under a Pari Passu Document) on the Collateral Vessel rising from or related to the Charter (or any other sub-charter or similar contract of or related to the Collateral Vessel) is expressly rohibited. "Ship Mortgage" means that certain First Preferred Mortgage, dated [
	he undersigned confirms that the Charter has been duly executed by it and constitutes its legal, valid and binding obligation, enforceable gainst it in accordance with its terms.
Fo	For and on behalf of

Exhibit A-4

[CHARTERER]

By: Name: Title:

EXHIBIT I

FORM OF U.S. PLEDGE AND SECURITY AGREEMENT

MADE BY

 $[N \ \mathsf{AME} \ \mathsf{OF} \ E \ \mathsf{ACH} \ G \ \mathsf{RANTOR} \]$

AND

 \boldsymbol{E} ach of the other \boldsymbol{G} rantors (as defined herein)

IN FAVOR OF

 $\label{eq:continuous} C \text{ itibank , N.A.,} \\ \text{as the } P \text{ ari } P \text{ assu } C \text{ ollateral } A \text{ gent}$

D ATED AS OF J UNE 3, 2013

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SCHEDULES:

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Executive Office

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EXHIBITS:

Exhibit A U.S. Pledge and Security Supplement

This U.S. PLEDGE AND SECURITY AGREEMENT dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time, this "Agreement") is entered into by each of the undersigned grantors (each, a "Grantor" and, together with any other entity that becomes a grantor hereunder pursuant to Section 8.01 hereof, collectively, the "Grantors") in favor of CITIBANK, N.A. ("Citibank"), in its capacity as Pari Passu Collateral Agent (together with any successor pari passu collateral agent, the "Pari Passu Collateral Agent") for the Pari Passu Secured Parties (as such term is defined in the Intercreditor Agreement referred to below).

RECITALS

- A. Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (the "Company"), has entered into a Credit Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Revolving Credit Agreement"), with the lenders from time to time party thereto, the Issuing Lenders (as defined therein) and Citibank, as administrative agent (the "Revolving Credit Agreement Agent"), providing for the making of loans to the Company and the issuance of letters of credit for the account of the Company or any Restricted Subsidiary (as defined therein) of the Company in the aggregate principal amount of \$500,000,000.
- B. The Company or any Restricted Subsidiary of the Company has entered into, or may at any time and from time to time after the date hereof enter into, (i) one or more Interest Rate Protection Agreements (as defined in the Revolving Credit Agreement) and/or Other Hedging Agreements (as defined in the Revolving Credit Agreement) with one or more Other Creditors (as defined in the Revolving Credit Agreement) (with each such Interest Rate Protection Agreement and/or Other Hedging Agreement with an Other Creditor being herein called a "Secured Hedging Agreement") or (ii) one or more Secured Cash Management Agreements (as defined in the Revolving Credit Agreement).
- C. The Company has entered into a Term Loan Credit Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "<u>Term Loan Agreement</u>"), with the lenders from time to time party thereto and Citibank, as administrative agent (the "<u>Term Loan Agent</u>"), providing for the making of term loans to the Company in the aggregate principal amount of \$750,000,000. In accordance with the terms of the Term Loan Agreement, the Company may incur additional term loans thereunder in an aggregate principal amount such that the sum of all Notes Obligations, plus the aggregate amount of all Pari Passu Obligations (other than the Revolving Credit Agreement Obligations) does not exceed \$1,700,000,000.
- D. The Company has entered into an Indenture dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Indenture") with the subsidiary guarantors party thereto from time to time and Deutsche Bank Trust Company Americas, as trustee (the "Trustee"), pursuant to which the Company will issue its 5.375% Senior Secured Notes due 2020 in an initial aggregate principal amount of \$750,000,000 (the "Initial Notes"). In accordance with the terms of the Indenture, the Company may issue additional senior secured notes thereunder in an additional principal amount of up to \$100,000,000 (such additional notes, together with the Initial Notes, the "Notes").

- E. It is a requirement of the Revolving Credit Agreement, the Secured Hedging Agreements, the Secured Cash Management Agreements, the Term Loan Agreement and the Indenture that the Grantors enter into this Agreement in order to grant to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, a security interest in the Collateral (as hereinafter defined).
- F. Each Grantor will receive substantial, direct and indirect, benefits from the extension of credit to the Company under the Revolving Credit Agreement, the Term Loan Agreement and the Indenture.
- G. NOW, THEREFORE, in consideration of the premises and the mutual agreements herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I Definitions

Section 1.01 <u>Definitions</u>.

- (a) Unless otherwise defined herein, capitalized terms defined in the Intercreditor Agreement and used herein have the meanings given to them in the Intercreditor Agreement, and all terms which are defined in Article 8 or 9 of the UCC (as hereinafter defined) are used herein as so defined. The parties intend that the terms used herein which are defined in the UCC have, at all times, the broadest and most inclusive meanings possible. Accordingly, if the UCC shall in the future be amended or held by a court to define any term used herein more broadly or inclusively than the UCC in effect on the date hereof, then such term, as used herein, shall be given such broadened meaning. If the UCC shall in the future be amended or held by a court to define any term used herein more narrowly, or less inclusively, than the UCC in effect on the date hereof, such amendment or holding shall be disregarded in defining terms used herein.
 - (b) The following terms have the following meanings:
 - "Collateral" has the meaning assigned such term in Section 2.01.
- "Copyrights" means the collective reference to (a) all copyrights arising under the laws of the United States, any other country or any political subdivision thereof, whether registered or unregistered and whether published or unpublished, all registrations and recordings thereof, and all applications in connection therewith, including all registrations, recordings and applications in the United States Copyright Office, and (b) the right to obtain all renewals thereof.
- "Copyright Licenses" means any written agreement naming any Grantor as licensor or licensee, granting any right under any Copyright, including the grant of rights to manufacture, distribute, exploit and sell materials derived from any Copyright.
- "<u>Drilling Contract</u>" shall mean any charterparty, pool agreement or drilling contract in respect of any Vessel or other contract for use of any Vessel.

- "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Company or any of its Subsidiaries as a consequence of the operation of any Vessel, including without limitation payments of any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Company or any of its Subsidiaries as a consequence of the operation of any Vessel; (iii) compensation payable to the Company or any of its Subsidiaries in the event of any requisition of any Vessel; (iv) remuneration for salvage, towage and other services performed by any Vessel and payable to the Company or any of its Subsidiaries; (v) demurrage and retention money receivable by the Company or any of its Subsidiaries in relation to any Vessel; (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings; (vii) if and whenever any Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to any Vessel; and (viii) other money whatsoever due or to become due to any of the Company or any of its Subsidiaries in relation to the operation of any Vessel.
- "Earnings Accounts" shall mean, collectively, all Deposit Accounts and/or Security Accounts into which any Earnings are directly deposited (other than Earnings payable to or for the account of a Local Content Subsidiary).
- "Excluded Collateral" means the following, whether now owned or at any time hereafter acquired by any Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest and whether now existing or hereafter coming into existence: (i) all Drilling Contracts, (ii) Equipment and Inventory, (iii) any General Intangibles, governmental approvals or other rights arising under any contracts, instruments, permits, licenses or other documents, if (but only to the extent that) the grant of a security interest therein would constitute a breach of a valid and enforceable restriction on the granting of a security interest therein or assignment thereof in favor of a third party (other than (A) to the extent that any such restriction or prohibition would be rendered ineffective pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) or any other applicable law (including Bankruptcy Law) or principles of equity or (B) to the extent that the other party has consented to the granting of a security interest therein or assignment thereof pursuant to the terms hereof or pursuant to a grant or assignment for security purposes generally), (iv) all Deposit Accounts other than the Earnings Accounts, (v) cash and Cash Equivalents (as defined in the Revolving Credit Agreement) securing letters of credit, bank guarantees or similar instruments to the extent any lien thereon constitutes a Lien permitted under the Pari Passu Documents, and (vi) any and all Proceeds of any of the Excluded Collateral to the extent constituting Excluded Collateral described in clauses (i) through (v) above (other than Proceeds of a Drilling Contract assigned pursuant to an Assignment of Insurance Proceeds).
 - "Foreign Security Documents" has the meaning assigned such term in Section 8.15(c).
- "Intellectual Property." means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including the Copyrights, the Copyright Licenses, the Patents, the Patents Licenses, the Trademarks and the Trademark Licenses, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

- "Intercreditor Agreement" means that certain Intercreditor Agreement dated as of the date hereof (as the same may be amended, restated, supplemented or otherwise modified from time to time) by and among the Company, each other Grantor (as defined therein), Citibank, as Pari Passu Collateral Agent, Revolving Credit Agreement Agent and Term Loan Agent, Deutsche Bank Trust Company Americas, as Trustee, and each other party from time to time party thereto.
- "<u>Lien</u>" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, and any lease having substantially the same effect as any of the foregoing).
- "Local Content Subsidiary" shall mean any Subsidiary of the Company that is a party to a Drilling Contract or otherwise holds the right to receive Earnings attributable to a Vessel for the purpose of satisfying any local content law or regulation or similar law or regulation.
- "Patent License" means all agreements, whether written or oral, providing for the grant by or to any Grantor of any right to manufacture, use or sell any invention covered in whole or in part by a Patent.
- "Patents" means the collective reference to (a) all letters patent of the United States, any other country or any political subdivision thereof, all reissues and extensions thereof and all goodwill associated therewith, (b) all applications for letters patent of the United States or any other country and all divisions, continuations and continuations-in-part thereof, and (c) all rights to obtain any reissues or extensions of the foregoing.
- "Pledged Collateral" means all Instruments, Pledged Securities and other Investment Property owned by any Grantor, whether or not physically delivered to the Pari Passu Collateral Agent pursuant to this Agreement.
- "Pledged Securities" shall mean, collectively, with respect to each Grantor, (i) all issued and outstanding Capital Stock (as defined in the Revolving Credit Agreement) owned by such Grantor (which Capital Stock owned as of the date hereof is set forth on Schedule 5.02A) all warrants, options or other rights to acquire Capital Stock and additional Capital Stock of whatever class of any such issuer acquired by such Grantor (including by issuance), together with all rights, privileges, authority and powers of such Grantor relating to such Capital Stock in each such issuer or under any organizational document of each such issuer, and the certificates, instruments and agreements representing such Capital Stock and any and all interest of such Grantor in the entries on the books of any financial intermediary pertaining to such Capital Stock, (ii) all Capital Stock of any issuer, which Capital Stock is hereafter acquired by such Grantor (including by issuance) and all warrants, options or other rights to acquire Capital Stock and additional Capital Stock of whatever class of any such issuer acquired by such Grantor (including by issuance), together with all rights, privileges, authority and powers of such Grantor

relating to such Capital Stock or under any organizational document of any such issuer, and the certificates, instruments and agreements representing such Capital Stock and any and all interest of such Grantor in the entries on the books of any financial intermediary pertaining to such Capital Stock, from time to time acquired by such Grantor in any manner, and (iii) all Capital Stock issued in respect of the Capital Stock referred to in clause (i) or (ii) upon any consolidation or merger of any issuer of such Capital Stock.

- "Secured Obligations" means the Pari Passu Obligations. It is acknowledged and agreed that the "Secured Obligations" shall not include any Excluded Swap Obligations (as defined in the Revolving Credit Agreement).
- "Subsidiary" shall mean, as to any Person, (i) any corporation more than 50% of whose stock of any class or classes having by the terms thereof ordinary voting power to elect a majority of the directors of such corporation (irrespective of whether or not at the time stock of any class or classes of such corporation shall have or might have voting power by reason of the happening of any contingency) is at the time owned by such Person and/or one or more Subsidiaries of such Person and (ii) any partnership, limited liability company, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has more than a 50% equity interest at the time.
- "Trademark License" means any agreement, whether written or oral, providing for the grant by or to any Grantor of any right to use any Trademark.
- "Trademarks" means (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers, and all goodwill associated therewith, now existing or hereafter adopted or acquired, all registrations and recordings thereof, and all applications in connection therewith, whether in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof or any other country or any political subdivision thereof, or otherwise, and all common-law rights related thereto, and (b) the right to obtain all renewals thereof.
- "<u>UCC</u>" means the Uniform Commercial Code as from time to time in effect in the State of New York; *provided*, *however*, that, in the event that, by reason of mandatory provisions of law, any of the attachment, perfection or priority of the Pari Passu Collateral Agent's or any other Pari Passu Secured Party's security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term "UCC" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection, the effect thereof or priority and for purposes of definitions related to such provisions.

Section 1.02 <u>Other Definitional Provisions</u>. Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, refer to such Grantor's Collateral or relevant part thereof.

Section 1.03 <u>Rules of Interpretation</u>. Unless the context otherwise requires, (i) the term "or" is not exclusive, (ii) words in the singular include the plural, and in the plural include

the singular, (iii) "will" shall be interpreted to express a command, (iv) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (v) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, and (vi) all references herein to Articles and Sections shall be construed to refer to Articles and Sections of this Agreement unless otherwise stated.

ARTICLE II Grant of Security Interest

Section 2.01 <u>Grant of Security Interest</u>. Each Grantor hereby pledges, assigns and transfers to the Pari Passu Collateral Agent, and hereby grants to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, a continuing security interest in and to all of such Grantor's right, title and interest in and to all of the following personal property, whether now owned or existing or hereafter acquired or arising and regardless of where located (the "<u>Collateral</u>"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations, whether now existing or hereafter incurred or arising:

- (i) all Accounts;
- (ii) all Chattel Paper;
- (iii) all Documents;
- (iv) all General Intangibles, including all Intellectual Property;
- (v) all Goods;
- (vi) all Earnings and all Earnings Accounts, including all Deposit Accounts (including all cash and other items deposited therein or credited thereto) and Securities Accounts (including all Securities Entitlements related thereto), in each case that are Earnings Accounts;
- (vii) all Letter of Credit Rights and Supporting Obligations;
- (viii) all Pledged Collateral;
- (ix) all Commercial Tort Claims specifically described on Schedule 3.02 (as such schedule may be updated from time to time in accordance with Section 4.03);
- (x) all books and Records relating to the foregoing:
- (xi) to the extent not otherwise described above, all Proceeds, products, accessions, rents and profits of, or in respect of, any and all of the foregoing and all collateral security and guarantees given by any Person to or in favor of any Grantor with respect to any of the foregoing;

provided, that notwithstanding anything to the contrary contained in this Section 2.01, the security interest created by this Agreement shall not extend to, and the term "Collateral" shall not include, any Excluded Collateral.

Each Grantor hereby irrevocably authorizes the Pari Passu Collateral Agent at any time and from time to time to file in any relevant jurisdiction any initial financing statements with respect to the Collateral or any part thereof and amendments thereto that (i) indicate the Collateral as all assets of such Grantor or words of similar effect as being of an equal or lesser scope or with greater detail or by any other description which reasonably approximates the description contained in this Agreement, and (ii) contain the information required by Article 9 of the UCC of each applicable jurisdiction for the filing of any financing statement or amendment, including whether such Grantor is an organization, the type of organization and any organizational identification number issued to such Grantor. Each Grantor agrees to provide such information to the Pari Passu Collateral Agent promptly upon request. Each Grantor also ratifies its authorization for the Pari Passu Collateral Agent to file in any relevant jurisdiction any initial financing statements or amendments thereto if filed prior to the date hereof.

Section 2.02 <u>Grantors Remain Liable</u>. Notwithstanding anything to the contrary contained herein, (i) each Grantor shall remain liable for all obligations under and in respect of the Collateral and nothing contained herein is intended or shall be a delegation of duties to the Pari Passu Collateral Agent or any other Pari Passu Secured Party, (ii) each Grantor shall remain liable under each of the agreements included in the Collateral, including any Accounts, Chattel Paper or Payment Intangibles, to perform all of the obligations undertaken by it thereunder all in accordance with and pursuant to the terms and provisions thereof, and neither the Pari Passu Collateral Agent nor any other Pari Passu Secured Party shall have any obligation or liability under any of such agreements by reason of or arising out of this Agreement or any other document related hereto nor shall the Pari Passu Collateral Agent nor any other Pari Passu Secured Party have any obligation to make any inquiry as to the nature or sufficiency of any payment received by it or have any obligation to take any action to collect or enforce any rights under any agreement included in the Collateral, including any agreements relating to any Accounts, Chattel Paper or Payment Intangibles, and (iii) the exercise by the Pari Passu Collateral Agent of any of its rights hereunder shall not release any Grantor from any of its duties or obligations under the contracts and agreements included in the Collateral, including any agreements relating to any Accounts, Chattel Paper or Payment Intangibles.

ARTICLE III Representations and Warranties

Each Grantor hereby represents and warrants to the Pari Passu Collateral Agent and each other Pari Passu Secured Party as follows:

Section 3.01 <u>Grantor Information</u>. On the date hereof, the correct legal name of such Grantor, all names and trade names that such Grantor has used in the last five years, such Grantor's jurisdiction of organization and each jurisdiction of organization of such Grantor over the last five years, organizational number (if any), taxpayer identification number (if any), and the location(s) of such Grantor's chief executive office or sole place of business over the last five years are specified on Schedule 3.01.

- Section 3.02 <u>Commercial Tort Claims</u>. Schedule 3.02 specifically describes, as of the date hereof, each Commercial Tort Claim as to which any Grantor has any right, title or interest.
- Section 3.03 <u>Instruments and Chattel Paper</u>. Such Grantor has delivered to the Collateral Agent all Collateral constituting Instruments and Chattel Paper, if any, in each case, having a face amount in excess of \$5,000,000.
- Section 3.04 No Investment Property . On the date hereof, except for Capital Stock owned in any Subsidiary of any Grantor, Cash Equivalents, and Securities Accounts holding Cash Equivalents (and Security Entitlements related to such Securities Accounts), no Grantor owns any Investment Property.
- Section 3.05 <u>Earnings Accounts</u>. Attached hereto as Schedule 3.05 is a list of all locations where any Grantor maintains any Earnings Accounts.

ARTICLE IV Covenants

Each Grantor covenants and agrees with the Pari Passu Collateral Agent, for the benefit of the Pari Passu Secured Parties, that, from and after the date of this Agreement until the Secured Obligations shall have been paid in full in cash:

Section 4.01 Maintenance of Perfected Security Interest; Further Assurances . Each Grantor agrees that:

- (a) to the extent that a security interest in the Collateral may be perfected by the filing of a financing statement or, in the case of an Earnings Account, by control, or, in the case of the Pledged Securities or any Instruments, by the possession thereof, pursuant to the UCC, it shall maintain the security interest created by this Agreement as a perfected first-priority security interest (subject to Liens permitted under the Pari Passu Documents) and shall defend such security interest against the claims and demands of all Persons whomsoever;
- (b) it will furnish to the Pari Passu Collateral Agent from time to time statements and schedules further identifying and describing the Collateral and such other reports in connection with the Collateral as the Pari Passu Collateral Agent may reasonably request, all in reasonable detail;
- (c) to the extent that a security interest in the Collateral is to be perfected by a filing pursuant to the UCC, it will file any required UCC continuation statements from time to time in order to maintain the Pari Passu Collateral Agent's first-priority security interest (subject to Liens permitted under the Pari Passu Documents) in the Collateral; and
- (d) at any time and from time to time, upon the written request of the Pari Passu Collateral Agent, and at the sole expense of such Grantor, it will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Pari Passu Collateral Agent may reasonably deem necessary for the purpose of obtaining or preserving the full benefits of this Agreement to the extent contemplated hereunder and of the rights and powers herein granted, including, without limitation, the delivery of certificated

securities, the filing of any financing or continuation statements under the UCC (or other similar laws in applicable jurisdictions) in effect in any jurisdiction with respect to the security interests created hereby and the entry into applicable Foreign Security Documents.

Section 4.02 <u>Changes in Locations, Name, Etc.</u> Without limitation of any other covenant herein, such Grantor will not cause or permit any change in (a) its legal name, (b) the location of its chief executive office or principal place of business, (c) its identity or corporate structure, (d) its jurisdiction of organization or its organizational identification number in such jurisdiction of organization (if any) or (e) its federal taxpayer identification number (if any), unless, in each case, such Grantor shall have first (i) notified the Pari Passu Collateral Agent of such change, and (ii) taken all action reasonably requested by the Pari Passu Collateral Agent for the purpose of maintaining the perfection and priority of the Pari Passu Collateral Agent's security interests under this Agreement. In any notice furnished pursuant to this Section 4.02, such Grantor will expressly state in a conspicuous manner that the notice is required by this Agreement and contains facts that may require additional filings of financing statements or other notices for the purposes of continuing perfection and maintaining the priority of the Pari Passu Collateral Agent's security interest in the Collateral.

Section 4.03 <u>Commercial Tort Claims</u>. If such Grantor shall obtain an interest in any Commercial Tort Claim as to which it determines that it reasonably expects to recover an amount in excess of \$5,000,000 such Grantor shall, within 30 days of obtaining such interest, execute and deliver documentation acceptable to the Pari Passu Collateral Agent granting and perfecting a security interest under the terms and provisions of this Agreement in and to such Commercial Tort Claim. Immediately upon the Pari Passu Collateral Agent's receipt of such documentation, Schedule 3.02 hereto shall be deemed automatically updated to include the details of such Commercial Tort Claim and such Grantor shall file such financing statements and other filings or registrations in each applicable jurisdiction as may be necessary or advisable in order to perfect the Pari Passu Collateral Agent's security interests and rights in such Commercial Tort Claims.

Section 4.04 <u>Earnings Accounts</u>. For each Earnings Account that any Grantor at any time opens and maintains, such Grantor shall, with respect to any such Deposit Account or Securities Account which is an Earnings Account maintained as of the date hereof, on the date hereof, and with respect to any such Deposit Account or Securities Account which is an Earnings Account opened after the date hereof, on the date such Deposit Account or Securities Account is opened, pursuant to an agreement in form and substance reasonably satisfactory to the Pari Passu Collateral Agent, cause the depository bank or the securities intermediary which maintains such Deposit Account or Securities Account to agree to comply at any time with instructions from the Pari Passu Collateral Agent to such depository bank or securities intermediary directing the disposition of funds from time to time credited to such Deposit Account or Securities Account, without further consent of such Grantor or any other Person. The Pari Passu Collateral Agent agrees with each Grantor that the Pari Passu Collateral Agent shall not give any such instructions or withhold any withdrawal rights from such Grantor unless an Event of Default has occurred and is continuing.

ARTICLE V Pledged Securities; Instruments

Section 5.01 Delivery of the Pledged Securities; Instruments .

- (a) Each Grantor agrees (x) promptly to deliver or cause to be delivered to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, (i) any and all Pledged Securities represented by a certificate and (ii) each promissory note representing indebtedness owned by a Grantor in a principal amount in excess of \$5,000,000, in each case to the extent constituting Collateral owned by it (if any then exist) and (y) to hold in trust for the Pari Passu Collateral Agent upon receipt and promptly thereafter deliver to the Pari Passu Collateral Agent any Pledged Securities and any such promissory notes constituting Collateral received after the date hereof.
- (b) Upon delivery to the Pari Passu Collateral Agent, any Pledged Securities and promissory notes required to be delivered pursuant to the foregoing paragraph (a) of this Section 5.01 shall be accompanied by stock powers, duly executed in blank or other instruments of transfer reasonably satisfactory to the Pari Passu Collateral Agent, and by such other instruments and documents as the Pari Passu Collateral Agent may reasonably request. Each delivery of Pledged Securities or promissory notes shall be accompanied by a schedule describing the securities or instruments, as applicable, which schedule shall be attached hereto as Schedule 5.02A or Schedule 5.02B, as applicable, and made a part hereof; provided that failure to attach any such schedule hereto shall not affect the validity of such pledge of such Pledged Securities or promissory notes. Each schedule so delivered shall supplement any prior schedules so delivered.
- Section 5.02 <u>Representations, Warranties and Covenants Specific to Pledged Collateral and Instruments</u>. Each Grantor represents, warrants and covenants to and with the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, that:
- (a) Schedule 5.02A correctly sets forth the percentage of the issued and outstanding shares of each class of the Capital Stock of the issuer thereof representing such Pledged Securities and includes all Capital Stock required to be delivered pursuant to Section 5.01; and
- (b) Schedule 5.02B correctly sets forth each promissory note representing indebtedness owned by a Grantor in a principal amount in excess of \$5,000,000 and includes all such promissory notes required to be delivered pursuant to Section 5.01 on the date hereof.

Section 5.03 Certification.

(a) To the extent the UCC is applicable, each interest in any limited liability company or limited partnership controlled by any Grantor, pledged hereunder and represented by a certificate, shall be a "security" within the meaning of Article 8 of the UCC as in effect from time to time in the State of New York (for purposes of this Section 5.03, the "New York UCC") and shall be governed by Article 8 of the New York UCC, and each such interest shall at all times hereafter be represented by a certificate.

- (b) To the extent the UCC is applicable, each interest in any limited liability company or limited partnership controlled by a Grantor, pledged hereunder and not represented by a certificate shall not be a "security" within the meaning of Article 8 of the New York UCC and shall not be governed by Article 8 of the New York UCC, and the Grantors shall at no time elect to treat any such interest as a "security" within the meaning of Article 8 of the New York UCC or issue any certificate representing such interest, unless the applicable Grantor provides prior written notification to the Pari Passu Collateral Agent of such election and immediately delivers any such certificate to the Pari Passu Collateral Agent pursuant to the terms hereof.
- (c) To the extent the UCC is applicable, in the event that the interests in any limited liability company or limited partnership not represented by a certificate are pledged by a Grantor hereunder after the date hereof, such Grantor shall simultaneously therewith provide the Pari Passu Collateral Agent with the information required by the applicable jurisdiction for the filing of a financing statement (or an amendment to a financing statement) with respect to the uncertificated interests so pledged (such filing to be made by such Grantor).

Section 5.04 Registration in Nominee Name; Denominations. The Pari Passu Collateral Agent, on behalf of the Pari Passu Secured Parties, shall have the right to hold the Pledged Securities in the name of the applicable Grantor, endorsed or assigned in blank or in favor of the Pari Passu Collateral Agent or, if an Event of Default shall have occurred and be continuing, in its own name as pledgee or the name of its nominee (as pledgee or as sub-agent). Upon the occurrence of an Event of Default, each Grantor will promptly give to the Pari Passu Collateral Agent copies of any notices or other communications received by it with respect to Pledged Securities registered in the name of such Grantor. If an Event of Default shall have occurred and be continuing, the Pari Passu Collateral Agent shall have the right to exchange the certificates representing Pledged Securities held by it for certificates of smaller or larger denominations for any purpose consistent with this Agreement. Each Grantor shall use its commercially reasonable efforts to cause each of its Subsidiaries that is not a party to this Agreement to comply with a request by the Pari Passu Collateral Agent, pursuant to this Section 5.04, to exchange certificates representing Pledged Securities of such Subsidiary for certificates of smaller or larger denominations.

Section 5.05 Voting Rights; Dividends, etc.

- (a) Unless and until an Event of Default shall have occurred and be continuing and the Pari Passu Collateral Agent shall have given notice to the relevant Grantors of the Pari Passu Collateral Agent's intention to exercise its rights hereunder:
 - (i) Each Grantor shall be entitled to exercise any and all voting and/or other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof.
 - (ii) The Pari Passu Collateral Agent shall execute and deliver, or cause to be executed and delivered, to each Grantor, all such proxies, powers of attorney and other instruments as such Grantor may reasonably request for the purpose of enabling such Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above.
 - (iii) Each Grantor shall be entitled to receive and retain any and all dividends and other distributions constituting Collateral paid on or distributed in respect of the Pledged Securities; *provided* that any noncash dividends or other distributions that would constitute Pledged Securities, whether resulting from a subdivision, combination or reclassification of the outstanding Capital Stock of the issuer of any Pledged Securities or received in exchange for Pledged Securities or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Collateral.

- (b) Upon the occurrence and during the continuance of an Event of Default and after notice by the Pari Passu Collateral Agent to the relevant Grantors of the Pari Passu Collateral Agent's intention to exercise its rights hereunder, all rights of any Grantor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 5.05, and the obligations of the Pari Passu Collateral Agent under paragraph (a)(ii) of this Section 5.05, shall cease, and all such rights shall thereupon become vested in the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers.
- (c) Any notice given by the Pari Passu Collateral Agent to the Grantors suspending their rights under paragraph (a) of this Section 5.05 (i) may be given by telephone if promptly confirmed in writing, (ii) may be given to one or more of the Grantors at the same or different times and (iii) may suspend the rights of the Grantors under paragraph (a)(i) or paragraph (a)(iii) in part without suspending all such rights (as specified by the Pari Passu Collateral Agent in its sole and absolute discretion) and without waiving or otherwise affecting the Pari Passu Collateral Agent's rights to give additional notices from time to time suspending other rights so long as an Event of Default has occurred and is continuing.

ARTICLE VI Remedial Provisions

Section 6.01 Remedies .

If any Event of Default shall have occurred and be continuing:

(a) The Pari Passu Collateral Agent shall have the right, subject to and in accordance with the terms of the Intercreditor Agreement, to exercise in respect of the Collateral, in addition to other rights and remedies provided for herein or under any other Pari Passu Document or otherwise available to it at law, in equity or under any statute or other agreement, all the rights and remedies of a secured party upon default under the UCC (whether or not the UCC applies to the affected Collateral) or any other applicable law or otherwise available at law or equity and also may: (i) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of the Pari Passu Collateral Agent's offices

or elsewhere, for cash, on credit or for future delivery, and upon such other terms as the Pari Passu Collateral Agent may deem commercially reasonable; and (ii) exercise any and all rights and remedies of any of the Grantors under or in connection with the Collateral, or otherwise in respect of the Collateral, including, without limitation, those set forth in Section 9-607 of the UCC. Each Grantor agrees that, to the extent notice of sale shall be required by law, at least 10 days' notice to such Grantor of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Pari Passu Collateral Agent shall not be obligated to make any sale of Collateral regardless of notice of sale having been given. The Pari Passu Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. The Pari Passu Collateral Agent and any other Pari Passu Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. If applicable to any particular item of Collateral, such Grantor further agrees, at the Pari Passu Collateral Agent's request, to assemble the Collateral and make it available to the Pari Passu Collateral Agent at places which the Pari Passu Collateral Agent shall reasonably select, whether at such Grantor's premises or elsewhere. Any such sale or transfer by the Pari Passu Collateral Agent, either to itself or to any other Person, shall be absolutely free from any claim of right by such Grantor, including any equity or right of redemption, stay or appraisal which such Grantor has or may have under any rule of law, regulation or statute now existing or hereafter adopted (and such Grantor hereby waives any rights it may have in respect thereof). Upon any such sale or transfer, the Pari Passu Collateral Agent shall have the right to deliver, assign and transfer to the purchaser or transferee thereof the Collateral so sold or transferred.

- (b) Any cash held by or on behalf of the Pari Passu Collateral Agent and all cash proceeds received by or on behalf of the Pari Passu Collateral Agent in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Pari Passu Collateral Agent, be held by the Pari Passu Collateral Agent as collateral for, and/or then or at any time thereafter applied in whole or in part by the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, against, all or any part of the Secured Obligations, in the manner set forth in Section 6.02.
- (c) All payments received by any Grantor in respect of the Collateral shall be received in trust for the benefit of the Pari Passu Collateral Agent, shall be segregated from other funds of such Grantor and shall be forthwith paid over to the Pari Passu Collateral Agent in the same form as so received (with any necessary endorsement).
- (d) The Pari Passu Collateral Agent is authorized, in connection with any sale of the Collateral pursuant to this Section 6.01, to deliver or otherwise disclose to any prospective purchaser of the Collateral any information in its possession relating to such Collateral.
- (e) The Pari Passu Collateral Agent may appoint any Person as agent to perform any act or acts necessary or incident to appropriate or realize upon any Collateral or to any sale or transfer of the Collateral.

(f) To the extent permitted by applicable law, each Grantor hereby waives all claims, damages and demands it may acquire against the Pari Passu Collateral Agent arising out of the exercise by it of any rights under this Agreement.

Section 6.02 Application of Proceeds; Waiver; Deficiency.

- (a) The Pari Passu Collateral Agent shall apply the proceeds of any collection or sale of Collateral, including any Collateral consisting of cash, as payment for the Secured Obligations in accordance with the terms of the Intercreditor Agreement.
- (b) It is understood and agreed that each Grantor shall remain jointly and severally liable to the extent that the proceeds of the Collateral hereunder are insufficient to pay in full the Secured Obligations.

Section 6.03 <u>Non-Judicial Enforcement</u>. The Pari Passu Collateral Agent may enforce its rights hereunder without prior judicial process or judicial hearing, and to the extent permitted by law, each Grantor expressly waives any and all legal rights which might otherwise require the Pari Passu Collateral Agent to enforce its rights by judicial process.

Section 6.04 <u>U.S. Securities Act</u>, etc. In view of the position of the Grantors in relation to the Pledged Securities, or because of other current or future circumstances, a question may arise under the U.S. Securities Act, as now or hereafter in effect, or any similar federal statute hereafter enacted analogous in purpose or effect (the U.S. Securities Act and any such similar statute as from time to time in effect being called the "Federal Securities Laws") with respect to any disposition of the Pledged Securities permitted hereunder. Each Grantor understands that compliance with the Federal Securities Laws might very strictly limit the course of conduct of the Pari Passu Collateral Agent if the Pari Passu Collateral Agent were to attempt to dispose of all or any part of the Pledged Securities, and might also limit the extent to which or the manner in which any subsequent transferee of any Pledged Securities could dispose of the same. Similarly, there may be other legal restrictions or limitations affecting the Pari Passu Collateral Agent in any attempt to dispose of all or part of the Pledged Securities under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. Each Grantor acknowledges and agrees that in light of such restrictions and limitations, the Pari Passu Collateral Agent, in its sole and absolute discretion, (a) may proceed to make such a sale whether or not a registration statement for the purpose of registering such Pledged Securities or part thereof shall have been filed under the Federal Securities Laws or, to the extent applicable, Blue Sky or other state securities laws and (b) may approach and negotiate with a single potential purchaser to effect such sale. Each Grantor acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, the Pari Passu Collateral Agent shall incur no responsibility or liability for selling all or any part of the Pledged Securities at a price that the Pari Passu Collateral Agent, in its sole and absolute discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if the sale were deferred until after registration as aforesaid or if more than a single purchaser were approached. The provisions of this Section 6.04 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which the Pari Passu Collateral Agent sells.

Section 6.05 Registration, etc. Each Grantor agrees that, upon the occurrence and during the continuance of an Event of Default, if, for any reason the Pari Passu Collateral Agent desires to sell any of the Pledged Securities at a public sale, such Grantor will, at any time and from time to time, upon the written request of the Pari Passu Collateral Agent, use its commercially reasonable efforts to take or to cause the issuer of such Pledged Securities to take such action and prepare, distribute and/or file such documents, as are required or advisable in the reasonable opinion of counsel for the Pari Passu Collateral Agent to permit the public sale of such Pledged Securities. Each Grantor further agrees to indemnify, defend and hold harmless the Pari Passu Collateral Agent, each other Pari Passu Secured Party, any underwriter and their respective officers, directors, affiliates and controlling persons from and against all loss, liability, expenses, costs of counsel (including reasonable fees and expenses of legal counsel to the Pari Passu Collateral Agent), and claims (including the costs of investigation) that they may incur insofar as such loss, liability, expense or claim arises out of or is based upon any alleged untrue statement of a material fact contained in any prospectus (or any amendment or supplement thereto) or in any notification or offering circular, or arises out of or is based upon any alleged omission to state a material fact required to be stated therein or necessary to make the statements in any thereof not misleading, except insofar as the same may have been caused by any untrue statement or omission based upon information furnished in writing to such Grantor or the issuer of such Pledged Securities by the Pari Passu Collateral Agent or any other Pari Passu Secured Party expressly for use therein. Each Grantor further agrees, upon such written request referred to above, to use its commercially reasonable efforts to qualify, file or register, or cause the issuer of such Pledged Securities to qualify, file or register, any of the Pledged Securities under the Blue Sky or other securities laws of such states as may be reasonably requested by the Pari Passu Collateral Agent and keep effective, or cause to be kept effective, all such qualifications, filings or registrations. Each Grantor will bear all costs and expenses of carrying out its obligations under this Section 6.05. Each Grantor acknowledges that there is no adequate remedy at law for failure by it to comply with the provisions of this Section 6.05 only and that such failure would not be adequately compensable in damages and, therefore, agrees that its agreements contained in this Section 6.05 may be specifically enforced.

ARTICLE VII The Pari Passu Collateral Agent

Section 7.01 Pari Passu Collateral Agent's Appointment as Attorney-in-Fact, Etc.

- (a) Each Grantor hereby irrevocably constitutes and appoints the Pari Passu Collateral Agent and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Grantor and in the name of such Grantor, as appropriate, or in its own name, for the purpose of carrying out the terms of this Agreement, to take any and all reasonably appropriate action and to execute any and all documents and instruments which may be reasonably necessary or desirable to accomplish the purposes of this Agreement, and, without limiting the generality of the foregoing, each Grantor hereby gives the Pari Passu Collateral Agent the power and right, on behalf of such Grantor, without notice to or assent by such Grantor, to do any or all of the following:
 - (i) unless being disputed in accordance with the terms of the Pari Passu Documents, pay or discharge taxes and liens levied or placed on or threatened against the Collateral, effect any repairs or any insurance called for by the terms of this Agreement or any other Pari Passu Document and pay all or any part of the premiums therefor and the costs thereof;

- (ii) in the case of any Intellectual Property, execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Pari Passu Collateral Agent may request to evidence the Pari Passu Collateral Agent's security interest in such Intellectual Property and the goodwill and general intangibles of such Grantor relating thereto or represented thereby;
- (iii) execute, in connection with any sale provided for in Section 6.01, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral; and
- (iv) (A) direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to the Pari Passu Collateral Agent (for the benefit of the Secured Pari Passu Parties) or as the Pari Passu Collateral Agent shall direct; (B) ask or demand for, collect, and receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral; (C) sign and indorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral; (D) in the name of such Grantor, as appropriate, or its own name, or otherwise, take possession of and indorse and collect any check, draft, note, acceptance or other instrument for the payment of moneys due with respect to any Collateral and commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral; (E) defend any suit, action or proceeding brought against such Grantor with respect to any Collateral; (F) settle, compromise or adjust any such suit, action or proceeding and, in connection therewith, give such discharges or releases as the Pari Passu Collateral Agent may deem appropriate; (G) assign any Copyright, Patent or Trademark (along with the goodwill of the business to which any such Copyright, Patent or Trademark pertains), throughout the world for such term or terms, on such conditions, and in such manner, as the Pari Passu Collateral Agent shall in its sole discretion determine; and (H) sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though the Pari Passu Collateral Agent were the absolute owner thereof for all purposes, and do, at the Pari Passu Collateral Agent's option and such Grantor's expense, at any time, or from time to time, all acts and things which the Pari Passu Collateral Agent deems necessary to protect, preserve or realize upon the Collateral and the Pari Passu Collateral Agent's security interests therein and to effect the intent of this Agreement, all as fully and effectively as such Grantor might do.

Anything in this Section 7.01(a) to the contrary notwithstanding, (x) the Pari Passu Collateral Agent agrees that it will not exercise any rights under the power of attorney provided for in this Section 7.01(a) unless an Event of Default shall have occurred and be continuing, and (y) the parties agree that the grant of the power of attorney set forth in this Section 7.01(a) shall not be deemed to create an obligation on the part of the Pari Passu Collateral Agent to take any one or more of the actions described herein.

- (b) If any Grantor fails to perform or comply with any of its agreements contained herein within the applicable grace periods, the Pari Passu Collateral Agent, at its option, but without any obligation so to do, may perform or comply, or otherwise cause performance or compliance, with such agreement.
- (c) The expenses of the Pari Passu Collateral Agent incurred in connection with actions undertaken as provided in this Section 7.01 shall constitute Secured Obligations and shall be payable by such Grantor to the Pari Passu Collateral Agent on demand.
- (d) Each Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue and in compliance hereof. All powers, authorizations and agencies contained in this Agreement are coupled with an interest and are irrevocable until this Agreement is terminated and the security interests created hereby are released.

Section 7.02 <u>Duty of Pari Passu Collateral Agent</u>. The Pari Passu Collateral Agent's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as the Pari Passu Collateral Agent deals with similar property for its own account, and the Pari Passu Collateral Agent shall be deemed to have exercised reasonable care in the custody and preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which comparable secured parties accord comparable collateral. Neither the Pari Passu Collateral Agent, any other Pari Passu Secured Party nor any of their respective agents, employees, stockholders, directors and officers shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any Grantor or any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The powers conferred on the Pari Passu Collateral Agent hereunder are solely to protect the Pari Passu Collateral Agent's and the other Pari Passu Secured Parties' interests in the Collateral and shall not impose any duty upon the Pari Passu Collateral Agent or any other Pari Passu Secured Party to exercise any such powers. The Pari Passu Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its agents, employees, stockholders, directors and officers shall be responsible to any Grantors for any act or failure to act hereunder, except for their own gross negligence, bad faith or willful misconduct, as determined by a court of competent jurisdiction in a final and non–appealable decision. To the fullest extent permitted by applicable law, the Pari Passu Collateral Agent shall be under n

presentment, notice of dishonor, protest, demand for performance, notice of non-performance, notice of intent to accelerate, notice of acceleration, or other notice or demand in connection with any Collateral or the Secured Obligations, or to take any steps necessary to preserve any rights against any Grantor or any other Person or ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relative to any Collateral, whether or not it has or is deemed to have knowledge of such matters. Each Grantor, to the extent permitted by applicable law, waives any right of marshaling in respect of any and all Collateral, and waives any right to require the Pari Passu Collateral Agent or any other Pari Passu Secured Party to proceed against any Grantor or any other Person, exhaust any Collateral or enforce any other remedy which the Pari Passu Collateral Agent or any other Pari Passu Secured Party now has or may hereafter have against each Grantor and any other Person.

Section 7.03 <u>Authority of Pari Passu Collateral Agent</u>. Each Grantor acknowledges that the rights and responsibilities of the Pari Passu Collateral Agent under this Agreement with respect to any action taken by the Pari Passu Collateral Agent or the exercise or non-exercise by the Pari Passu Collateral Agent of any option, voting right, request, judgment or other right or remedy provided for herein or resulting or arising out of this Agreement or in connection with the Secured Obligations shall, as between the Pari Passu Collateral Agent and the other Pari Passu Secured Parties, be governed by the terms of the Intercreditor Agreement (including, without limitation, the rights and protections set forth therein) and by such other agreements with respect thereto as may exist from time to time among them, but, as between the Pari Passu Collateral Agent and the Grantors, the Pari Passu Collateral Agent shall be conclusively presumed to be acting as agent for the Pari Passu Secured Parties with full and valid authority so to act or refrain from acting, and no Grantor shall be under any obligation, or entitlement, to make any inquiry respecting such authority.

Section 7.04 <u>Limitation on Duty of Pari Passu Collateral Agent in Respect of Collateral</u>. Notwithstanding anything to the contrary set forth in this Agreement or in any other Collateral Agreement, the Pari Passu Collateral Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any security interest in the Collateral. The Pari Passu Collateral Agent shall be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property, and shall not be liable or responsible for any loss, damage or diminution in the value of any of the Collateral, by reason of the act or omission of any carrier, forwarding agency or other agent or bailee appointed by the Pari Passu Collateral Agent in good faith.

Notwithstanding anything to the contrary set forth in this Agreement or in any other Collateral Agreement, the Pari Passu Collateral Agent shall not be responsible for the existence, genuineness or value of any of the Collateral, or for the validity, perfection, priority or enforceability of the liens in any of the Collateral, whether impaired by operation of law or by reason of any action or omission to act on its part hereunder, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of such Grantor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or liens upon the Collateral or otherwise as to the maintenance of the Collateral. The Pari Passu Collateral Agent shall have no duty to ascertain, monitor, investigate or inquire as to the performance or observance of any of the terms of this Agreement or any other Collateral Agreement by such Grantor or any other party to such documents.

The provisions of Article 3 of the Intercreditor Agreement are incorporated herein by reference.

Section 7.05 Indemnity and Expenses.

- (a) Without prejudice to any other rights or remedies of the Pari Passu Collateral Agent under any of the other Pari Passu Documents, each Grantor agrees to indemnify, defend and save and hold harmless the Pari Passu Collateral Agent and each of its officers, directors, employees, agents and advisors (each, an "Indemnified Party") from and against, and shall pay on demand any and all claims, damages, losses, liabilities and expenses (including, without limitation, the reasonable fees and disbursements of a single counsel to such parties plus one special maritime counsel to such parties, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or resulting from this Agreement (including, without limitation, enforcement of this Agreement), except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from an Indemnified Party's gross negligence, bad faith or willful misconduct.
- (b) Without prejudice to any other rights or remedies of the Pari Passu Collateral Agent under any of the other Pari Passu Documents, each Grantor will, upon demand, pay to the Pari Passu Collateral Agent and each of its officers, directors, employees, agents and advisors the amount of any and all expenses (including, without limitation, the reasonable fees and disbursements of a single counsel to such parties plus one special maritime counsel to such parties, a single local counsel in each appropriate jurisdiction, and, in the case of a conflict of interest, one additional counsel in each jurisdiction to such affected parties similarly situated) that may be incurred in connection with (i) the transactions which give rise to this Agreement, the preparation of this Agreement and the administration of this Agreement, (ii) the custody or preservation of, use or operation of, or the sale of, collection from or other realization upon, any of the Collateral of such Grantor, (iii) the exercise or enforcement of any of the Pari Passu Collateral Agent or the other Pari Passu Secured Parties hereunder or (iv) the failure by such Grantor to perform or observe any of the provisions hereof.

ARTICLE VIII Miscellaneous

Section 8.01 <u>Additional Grantors</u>. In the event that, after the date hereof, another Person is required to become a Grantor hereunder pursuant to the terms of the Indenture, the Revolving Credit Agreement, and the Term Loan Agreement, then upon the execution and delivery, or authentication, by any such Person of a supplement to this Agreement in substantially the form of Exhibit A hereto (each a "<u>U.S. Pledge and Security Supplement</u>"), (a) such Person shall be referred to as an "Additional Grantor" and shall be and become a Grantor hereunder, and each reference in this Agreement and the other Pari Passu Documents to a

"Grantor" shall also mean and be a reference to such Additional Grantor, and each reference in this Agreement and the other Pari Passu

Documents to "Collateral" shall also mean and be a reference to the Collateral of such Additional Grantor, and (b) the supplemental Schedules attached to each U.S. Pledge and Security Supplement shall be incorporated into and become a part of and supplement the Schedules hereto, and the Pari Passu Collateral Agent may attach such supplemental schedules to such Schedules; and each reference to such Schedules shall mean and be a reference to such Schedules as supplemented pursuant to each U.S. Pledge and Security Supplement.

Section 8.02 Amendments; Waivers.

- (a) No amendment, modification or waiver of any provision of this Agreement, and no consent to any departure by any Grantor herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.
- (b) No failure on the part of the Pari Passu Collateral Agent or any other Pari Passu Secured Party to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. Neither the execution nor the delivery of this Agreement shall in any manner impair or affect other security for the Secured Obligations. The rights and remedies of the Pari Passu Collateral Agent provided herein and in the other Pari Passu Documents are cumulative and are in addition to, and not exclusive of, any rights or remedies provided by law or otherwise.

Section 8.03 Notices, etc.

- (a) All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party, (i) in the case of any Grantor, to such Grantor at c/o Pacific Drilling Services, Inc., 3050 Post Oak Blvd., Suite 1500, Houston, Texas 77056, Attention: John Boots, Facsimile No. (713) 583-5777, and (ii) in the case of the Pari Passu Collateral Agent, as provided in the Intercreditor Agreement; or in any case at such other address as any of the Persons listed above may hereafter notify the others in writing.
- (b) Any Grantor or the Pari Passu Collateral Agent may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication

is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

Section 8.04 <u>Continuing Security Interest; Successors and Assigns</u>. This Agreement shall create a continuing security interest in the Collateral and shall (a) remain in full force and effect until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, (b) be binding upon each Grantor, its successors and assigns and (c) inure, together with the rights and remedies of the Pari Passu Collateral Agent hereunder, to the benefit of the Pari Passu Secured Parties and their respective successors, transferees and assigns.

Section 8.05 Survival; Reinstatement; Security Interest Absolute.

- (a) All covenants, agreements, representations and warranties made by each Grantor herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Pari Passu Document to which it is a party shall be considered to have been relied upon by the Pari Passu Collateral Agent and shall survive the execution and delivery of this Agreement, regardless of any investigation made by the Pari Passu Collateral Agent or on its behalf and notwithstanding that the Pari Passu Collateral Agent may have had notice or knowledge of any default or incorrect representation or warranty at the time any credit is extended hereunder or under any other Pari Passu Document, and shall continue in full force and effect as long as any Secured Obligation is outstanding and unpaid. The provisions of Section 7.05 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Secured Obligations, or the termination of this Agreement or any other Pari Passu Document or any provision hereof or thereof or the resignation or removal of the Pari Passu Collateral Agent in accordance with Section 3.6 of the Intercreditor Agreement.
- (b) To the extent that any payments on the Secured Obligations or proceeds of any Collateral are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver or other Person under any bankruptcy law, common law or equitable cause, then to such extent, the Secured Obligations so satisfied shall be revived and continue as if such payment or proceeds had not been received and the Pari Passu Collateral Agent's and the Pari Passu Secured Parties' liens, security interests, rights, powers and remedies under this Agreement shall continue in full force and effect. In such event, this Agreement shall be automatically reinstated and each Grantor shall take such action as may be reasonably requested by the Pari Passu Collateral Agent to effect such reinstatement.
- (c) The obligations of each Grantor under this Agreement are independent of the Secured Obligations or any other obligations of any other Grantor under or in respect of the other Pari Passu Documents, and a separate action or actions may be brought and prosecuted against each Grantor to enforce this Agreement, irrespective of whether any action is brought against such Grantor or whether such Grantor is joined in any such action or actions. All rights of the Pari Passu Collateral Agent and the other Pari Passu Secured Parties and the pledge, assignment and security interest hereunder, and all obligations of each Grantor hereunder, shall be irrevocable, absolute and unconditional irrespective of, and each Grantor hereby irrevocably waives (to the maximum extent permitted by applicable law) any defenses it may now have or may hereafter acquire in any way relating to, any or all of the following:
 - (i) any lack of validity or enforceability of any Pari Passu Document or any other agreement or instrument relating thereto;

- (ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Secured Obligations or any other obligations of the Company or any of its Restricted Subsidiaries under or in respect of any Pari Passu Document or any other amendment or waiver of or any consent to any departure from any Pari Passu Document, including, without limitation, any increase in the Secured Obligations resulting from the extension of additional credit to the Company or any of its Restricted Subsidiaries or otherwise;
- (iii) any taking, exchange, release or non-perfection of any Collateral or any other collateral, or any taking, release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Secured Obligations;
- (iv) any manner of application of any Collateral or any other collateral, or proceeds thereof, to all or any of the Secured Obligations, or any manner of sale or other disposition of any Collateral or any other collateral for all or any of the Secured Obligations or any other obligations of the Company or any of its Restricted Subsidiaries under or in respect of the Pari Passu Documents or any other assets of the Company or any of its Restricted Subsidiaries;
- (v) any change, restructuring or termination of the corporate structure or existence of the Company or any of its subsidiaries;
- (vi) any failure of any Pari Passu Secured Party to disclose to any Grantor any information relating to the business, condition (financial or otherwise), operations, performance, assets, nature of assets, liabilities or prospects of the Company or any Grantor now or hereafter known to such Pari Passu Secured Party (each Grantor waiving any duty on the part of the Pari Passu Secured Parties to disclose such information); or
- (vii) any other circumstance (including, without limitation, any statute of limitations) or any existence of or reliance on any representation by any Pari Passu Secured Party that might otherwise constitute a defense available to, or a discharge of, such Grantor or any other Grantor or a third party grantor of a security interest.

Section 8.06 Counterparts; Integration; Effectiveness.

(a) This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall be deemed an original, but all of which when taken

together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually signed counterpart of this Agreement.

- (b) This Agreement and the other Pari Passu Documents and any separate letter agreements with respect to fees payable to the Pari Passu Collateral Agent or the Pari Passu Secured Parties constitute the entire contract among the parties relating to the subject matter hereof and thereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof and thereof. This Agreement and the other Pari Passu Documents represent the final agreement among the parties hereto and thereto and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between or among the parties.
- (c) This Agreement shall become effective when it shall have been executed by the Pari Passu Collateral Agent and when the Pari Passu Collateral Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto.

Section 8.07 <u>Severability</u>. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 8.08 Governing Law; Submission to Jurisdiction.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HERETO SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THAT THE PERFECTION AND THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTEREST CREATED HEREBY, IN RESPECT OF ANY PARTICULAR COLLATERAL, ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH GRANTOR HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH GRANTOR HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GRANTOR, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH GRANTOR. EACH GRANTOR FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY

THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 8.03 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH GRANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY OF THE PARI PASSU SECURED PARTIES TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY GRANTOR IN ANY OTHER JURISDICTION.

- (b) EACH GRANTOR HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 8.09 <u>Headings</u>. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 8.10 Acknowledgments . Each Grantor hereby acknowledges that:

- (a) neither the Pari Passu Collateral Agent nor any other Pari Passu Secured Party has any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Pari Passu Documents, and the relationship between the Company and the other Grantors, on the one hand, and the Pari Passu Secured Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor;
- (b) no joint venture is created hereby or by the other Pari Passu Documents or otherwise exists by virtue of the transactions contemplated hereby among the Pari Passu Secured Parties or among the Grantors and the Pari Passu Secured Parties; and
- (c) each of the parties hereto specifically agrees that it has a duty to read this Agreement and the other Pari Passu Documents and agrees that it is charged with notice and knowledge of the terms of this Agreement and the other Pari Passu Documents; that it has in fact read this Agreement and the other Pari Passu Documents and is fully informed and has full notice and knowledge of the terms, conditions and effects thereof; that it has been represented by

independent legal counsel of its choice throughout the negotiations preceding its execution of this Agreement; and has received the advice of its attorney in entering into this Agreement. Each party hereto agrees and covenants that it will not contest the validity or enforceability of any exculpatory provision on the basis that the party had no notice or knowledge of such provision or that the provision is not "conspicuous."

Section 8.11 Releases, Termination.

- (a) Upon any sale, transfer or other disposition of any item of Collateral of any Grantor in accordance with the terms of the Intercreditor Agreement and the other Pari Passu Documents, the Pari Passu Collateral Agent will, at such Grantor's expense, execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence the release of such item of Collateral from the security interest granted hereby.
- (b) Upon the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, the pledge and security interest granted hereby shall terminate and all rights to the Collateral shall revert to the applicable Grantor. Upon any such termination, the Pari Passu Collateral Agent will, at the written request of the applicable Grantor and at such Grantor's expense, execute and deliver to such Grantor such documents as such Grantor shall reasonably request to evidence such termination.
- Section 8.12 <u>Acceptance</u>. Each Grantor expressly waives notice of acceptance of this Agreement, acceptance on the part of the Pari Passu Secured Parties being conclusively presumed by their request for this Agreement and delivery of the same to the Pari Passu Collateral Agent.

Section 8.13 General Limitation of Liability.

- (a) The Pari Passu Collateral Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Pari Passu Collateral Agent that prevents the Pari Passu Collateral Agent from performing such act or fulfilling such duty, obligation or responsibility hereunder (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire, facsimile or other wire or communication facility).
- (b) In no event shall the Pari Passu Collateral Agent be responsible or liable for special, indirect, or consequential loss, lost profits or damage of any kind whatsoever (including, but not limited to, loss of profit and diminution in the value thereof) irrespective of whether the Pari Passu Collateral Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 8.14 <u>Resignation or Removal of Pari Passu Collateral Agent</u>. If the Pari Passu Collateral Agent resigns or is removed in accordance with the Intercreditor Agreement, such retiring Pari Passu Collateral Agent shall cease to be a party to this Agreement and all obligations imposed upon such retiring Pari Passu Collateral Agent pursuant to this Agreement shall be terminated as to such retiring Pari Passu Collateral Agent and deemed to be imposed upon the successor Pari Passu Collateral Agent appointed pursuant to the terms of the

Intercreditor Agreement, provided, however, the retiring Pari Passu Collateral Agent's indemnification rights contained in this Agreement, the Intercreditor Agreement or otherwise shall continue in favor of the retiring Pari Passu Collateral Agent.

- Section 8.15 <u>Applicable Foreign Law</u>. Notwithstanding anything to the contrary contained herein, each Grantor and the Pari Passu Collateral Agent hereby acknowledge and agree that:
- (a) one or more Grantors hereunder may be organized under the laws of jurisdictions (herein referred to as the "Foreign Jurisdictions") other than the United States, the District of Columbia and the States of the United States;
- (b) the creation and perfection of the Pari Passu Collateral Agent's liens and security interests in the Collateral and the rights and remedies of the Pari Passu Collateral Agent with respect thereto may, in some circumstances, be subject to the laws, rules and regulations of such Foreign Jurisdictions; and
- (c) the applicable Grantor may also execute and deliver to the Pari Passu Collateral Agent (or its designee) separate Collateral Agreements (herein referred to as the "Foreign Security Documents") that are governed by applicable foreign law and that also cover such Collateral, in which case, the provisions of this Agreement shall apply only to the extent that the matters addressed hereby are governed by the UCC or by the laws of the State of New York and not by applicable foreign law or the Foreign Security Documents.

Section 8.16 <u>U.S.A Patriot Act</u>. The parties hereto acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act), all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Pari Passu Collateral Agent such information as it may request, from time to time, in order for the Pari Passu Collateral Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 8.17 <u>Conflict</u>. In the event of a direct conflict between this Agreement and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Agreement sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Agreement as not being in direct conflict with the Intercreditor Agreement.

The Pari Passu Collateral Agent shall have all the benefits, indemnities, powers, privileges, protections and rights contained in the Intercreditor Agreement (including for the avoidance of any doubt Article III of the Intercreditor Agreement) in connection with acting in its capacity as Pari Passu Collateral Agent hereunder.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Exhibit I Page 28

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed and delivered as of the date first above written.

SIGNATURE BLOCK FOR EACH GRANTOR]	
y:	
ame:	
itle:	

[Signature Page to U.S. Pledge and Security Agreement]

CITIBANK, N.A., as Pari Passu Collateral Agent	
By: Name: Title:	
	[Signature Page to U.S. Pledge and Security Agreement]

Acknowledged and Agreed to as of the date hereof by:

SCHEDULE 3.01

Names/Trade Names, Jurisdiction of Organization, Organization Number, Taxpayer Iden	ntification Number, Chief Executive Office
]	

Schedule 3.01-1

SCHEDULE 3.02

Commercial Tort Claims

[]

Schedule 3.02-1

SCHEDUI	LE 3.	05
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Earnings Accounts

[]

Schedule 3.05-1

			Securities
[]		

SCHEDULE 5.02A

Schedule 5.02A-1

				Instruments
[]			

SCHEDULE 5.02B

Schedule 5.02B-1

EXHIBIT A

[FORM OF]

U.S. PLEDGE AND SECURITY AGREEMENT SUPPLEMENT

This U.S. PLEDGE AND SECURITY AGREEMENT SUPPLEMENT (this "<u>U.S. Pledge and Security Supplement</u>"), dated as of [], 20[], is made by [], a [] (the "<u>Additional Grantor</u>"), in favor of CITIBANK, N.A. ("<u>Citibank</u>"), in its capacity as Pari Passu Collateral Agent (together with any successor pari passu collateral agent, the "<u>Pari Passu Collateral Agent</u>") for the Pari Passu Secured Parties (as such term is defined in the U.S. Pledge and Security Agreement referred to below).

WITNESSETH:

WHEREAS, Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (the "Company"), has entered into a Credit Agreement dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Revolving Credit Agreement"), with the lenders from time to time party thereto, the Issuing Lenders (as defined therein) and Citibank, as administrative agent, providing for the making of loans to the Company and the issuance of letters of credit for the account of the Company or any Restricted Subsidiary (as defined therein) of the Company in the aggregate principal amount of \$500,000,000;

WHEREAS, the Company or any Restricted Subsidiary of the Company has entered into, or may at any time and from time to time enter into, (a) one or more Interest Rate Protection Agreements (as defined in the Revolving Credit Agreement) and/or Other Hedging Agreements (as defined in the Revolving Credit Agreement) (with each such Interest Rate Protection Agreement and/or Other Hedging Agreement with an Other Creditor being herein called a "Secured Hedging Agreement") or (b) one or more Secured Cash Management Agreements (as defined in the Revolving Credit Agreement);

WHEREAS, the Company has entered into a Term Loan Credit Agreement dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Term Loan Agreement"), with the lenders from time to time party thereto and Citibank, as administrative agent, providing for the making of term loans to the Company in the aggregate principal amount of \$750,000,000. In accordance with the terms of the Term Loan Agreement, the Company may incur additional term loans thereunder in an aggregate principal amount such that the sum of all Notes Obligations, plus the aggregate amount of all Pari Passu Obligations (other than the Revolving Credit Agreement Obligations) does not exceed \$1,700,000,000;

WHEREAS, the Company has entered into an Indenture dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, the "Indenture") with the subsidiary guarantors party thereto from time to time and Deutsche Bank

Trust Company Americas, as trustee, pursuant to which the Company has issued its 5.375% Senior Secured Notes due 2020 in an initial aggregate principal amount of \$750,000,000 (the "<u>Initial Notes</u>"). In accordance with the terms of the Indenture, the Company may issue additional senior secured notes thereunder in an additional principal amount of up to \$100,000,000 (such additional notes, together with the Initial Notes, the "<u>Notes</u>");

WHEREAS, in connection with the Revolving Credit Agreement, the Secured Hedging Agreements, the Secured Cash Management Agreements, the Term Loan Agreement and the Indenture, certain Subsidiaries of the Company have entered into a U.S. Pledge and Security Agreement dated as of June 3, 2013 (as the same may be amended, restated, supplemented or otherwise modified from time to time, including as supplemented by this U.S. Pledge and Security Supplement, the "<u>U.S. Pledge and Security Agreement</u>") in favor of the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties;

WHEREAS, the Revolving Credit Agreement, the Term Loan Agreement and the Indenture require the Additional Grantor to execute and deliver this U.S. Pledge and Security Supplement to the Pari Passu Collateral Agent, and the Additional Grantor has agreed to execute and deliver this U.S. Pledge and Security Supplement to the Pari Passu Collateral Agent;

NOW, THEREFORE, IT IS AGREED:

- (a) SECTION 1. <u>Defined Terms</u>. Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Intercreditor Agreement (as defined in the U.S. Pledge and Security Agreement) or the U.S. Pledge and Security Agreement.
- (b) SECTION 2. <u>Grant of Security Interest</u>. The Additional Grantor hereby pledges, assigns and transfers to the Pari Passu Collateral Agent, and hereby grants to the Pari Passu Collateral Agent, for the ratable benefit of the Pari Passu Secured Parties, a continuing security interest in and to all of such Additional Grantor's right, title and interest in and to all of the following personal property, whether now owned or existing or hereafter acquired or arising and regardless of where located, as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Secured Obligations, whether now existing or hereafter incurred or arising:
 - (i) all Accounts;
 - (ii) all Chattel Paper;
 - (iii) all Documents;
 - (iv) all General Intangibles, including all Intellectual Property;
 - (v) all Goods:
 - (vi) all Earnings and all Earnings Accounts, including all Deposit Accounts (including all cash and other items deposited therein or credited thereto) and Securities Accounts (including all Securities Entitlements related thereto), in each case that are Earnings Accounts;
 - (vii) all Letter of Credit Rights and Supporting Obligations;

(viii) all Pledged Collateral;

- (ix) all Commercial Tort Claims specifically described on Schedule 3.02 (as such schedule may be updated from time to time in accordance with Section 4.03 of the U.S. Pledge and Security Agreement);
- (x) all books and Records relating to the foregoing;
- (xi) to the extent not otherwise described above, all Proceeds, products, accessions, rents and profits of, or in respect of, any and all of the foregoing and all collateral security and guarantees given by any Person to or in favor of the Additional Grantor with respect to any of the foregoing;

provided, that notwithstanding anything to the contrary contained in this Section 2, the security interest created hereunder shall not extend to, and the term "Collateral" shall not include any Excluded Collateral.

SECTION 3. Obligations Under the U.S. Pledge and Security Agreement. The undersigned hereby agrees, as of the date first above written, to be bound as a Grantor by all of the terms and conditions of the U.S. Pledge and Security Agreement to the same extent as each of the other Grantors thereunder. The undersigned further agrees, as of the date first above written, that each reference in the U.S. Pledge and Security Agreement to an "Additional Grantor" or a "Grantor" shall also mean and be a reference to the undersigned, and each reference in any other Pari Passu Document to a "Grantor" shall also mean and be a reference to the undersigned. The information set forth in Annex A hereto is hereby added to the information set forth in Schedules [] ¹ to the U.S. Pledge and Security Agreement.

SECTION 4. Representations, Warranties and Covenants . The undersigned hereby (a) makes each representation and warranty set forth in Article III of the U.S. Pledge and Security Agreement (assuming that all references in such Article III to a specific date refer to the date hereof) and (b) undertakes each covenant obligation set forth in Article IV and Article V of the U.S. Pledge and Security Agreement, in each case to the same extent as each other Grantor.

SECTION 5. Governing Law. THIS U.S. PLEDGE AND SECURITY SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT THAT THE PERFECTION AND THE EFFECT OF PERFECTION OR NON-PERFECTION OF THE SECURITY INTEREST CREATED HEREBY, IN RESPECT OF ANY PARTICULAR COLLATERAL, ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Refer to each Schedule which needs to be supplemented.

Very truly yours,
[NAME OF ADDITIONAL GRANTOR]
By:
Name: Title:
Notice Address:

IN WITNESS WHEREOF, the undersigned has caused this U.S. Pledge and Security Supplement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

Annex A

[Information to Supplement Schedules to the U.S. Pledge and Security Agreement]

EXHIBIT J

FORM OF FIRST PREFERRED MORTGAGE

- ON THE
[] FLAG VESSEL

[NAME OF VESSEL]

OFFICIAL NO. []

[],

as Owner

TO

CITIBANK, N.A.,

as Pari Passu Collateral Agent and Trustee, Mortgagee

[DATE]

Exhibit	J
Page	2

THIS FIRST PREFERRED MORTGAGE (this "Mortgage") is made and given this [] day of [], 20[] by [], a
[] organized and existing under the laws of [] [and qualified as a foreign maritime entity under the laws of	
[]], with offices at [] (the "Owner"), in favor of CITIBANK, N.A., as the pari passu collateral agent (the "Pa	<u>ri Passu</u>
Collateral Agent") for the Pari Passu Secured Parties (defined below) (together with its successors and assigns, in such capacity, the "	
Mortgagee ").	

Capitalized terms used herein and not otherwise defined are used herein as defined in the Intercreditor Agreement (as defined below).

WHEREAS:

	A. The Owner is the sole owner of the whole of the vessel named [], Official Number [], of about [] gross
tons and [] net tons, registered and documented in the name of the Owner under	er the laws and flag of [].	

- B. Pursuant to Section 3.1(c) of the Intercreditor Agreement (as defined below), the Mortgagee has agreed to act as trustee mortgagee on behalf of the Pari Passu Secured Parties and hold this Mortgage in such capacity.
- C. The Owner is a wholly owned subsidiary of Pacific Drilling S.A., a Luxembourg corporation organized under the form of a *société anonyme* (together with its successors and permitted assigns, the "Company").
- D. The Company is the borrower under the Revolving Credit Agreement (as hereinafter defined) pursuant to which the lenders from time to time party thereto have made available to the Company an extension of credit in the form of loans and letters of credit in the aggregate principal amount of Five Hundred Million United States Dollars (US\$500,000,000). The form of the Revolving Credit Agreement is annexed hereto as Exhibit A and made a part hereof. In addition, the terms of the Term Loan Agreement (as hereinafter defined) and the terms of the indenture governing the Notes (as hereinafter defined) permit the Revolving Credit Agreement to be increased to provide for an additional One Hundred Million United States Dollars (US\$100,000,000) of extensions of loans and letters of credit to a total aggregate principal amount of Six Hundred Million United States Dollars (US\$600,000,000).
- E. The Company is the borrower under the Term Loan Agreement (as hereinafter defined) pursuant to which the lenders from time to time party thereto have advanced to the Company a term loan in the aggregate principal amount of Seven Hundred Fifty Million United States Dollars (US\$750,000,000). The form of the Term Loan Agreement is annexed hereto as Exhibit B and made a part hereof. In accordance with the terms of the Term Loan Agreement, the Company may incur additional term loans thereunder by a further One Hundred

Million United States Dollars (US\$100,000,000) provided that the aggregate principal amount of the loans outstanding thereunder, plus the aggregate principal amount of outstanding Notes (as hereinafter defined) does not exceed One Billion Seven Hundred Million United States Dollars (US\$1,700,000,000).

- F. The Owner, as a guarantor, is party to the Indenture (as hereinafter defined) pursuant to which the Company, as issuer, has issued Seven Hundred Fifty Million United States Dollars (US\$750,000,000) aggregate principal amount of 5.375% senior secured notes due 2020 (the "Initial Notes"). The form of the Indenture is annexed hereto as Exhibit C and made a part hereof. In accordance with the terms of the Indenture, the Company may issue additional senior secured notes thereunder in an additional principal amount of up to One Hundred Million United States Dollars (US\$100,000,000) (such additional notes, together with the Initial Notes, the "Notes").
- G. The Owner has executed its (x) Subsidiary Guaranty as defined in the Revolving Credit Agreement (the "Revolving Credit Agreement (the "Term Loan Agreement Guarantee"), and, together with the Revolving Credit Agreement Guarantee and the Note Guarantee, the "Guarantees") whereby the Owner has guaranteed the obligations of the Company under the Revolving Credit Agreement, the Term Loan Agreement, and the Indenture, respectively. The Owner will receive substantial, direct and indirect, benefits through the extensions of credit and the proceeds of the loans and notes under the terms of the Credit Facilities (as hereinafter defined) and related documents; and in consideration of such benefit and other good and valuable consideration and to secure its obligations under the Guarantees, the receipt and sufficiency of which are hereby acknowledged, the Owner has executed this Mortgage. The form of the Revolving Credit Agreement Guarantee is part of Exhibit A and made a part hereof. The Term Loan Guarantee is part of Exhibit B and made a part hereof. The form of the Note Guarantee is set forth in the Indenture which is annexed hereto as Exhibit C and made a part hereof.
- H. The Company is justly indebted under the Revolving Credit Agreement, the Term Loan Agreement and the Indenture, and the Owner is justly indebted under the Guarantees.
- I. In accordance with the terms of the Intercreditor Agreement the parties thereto have, inter alia, agreed to certain matters relating to this Mortgage, the Revolving Credit Agreement, the Term Loan Agreement, and the Indenture. The form of the Intercreditor Agreement is annexed hereto as Exhibit D and made a part hereof.
- J. This Mortgage secures the payment and performance of the Pari Passu Obligations (including, without limitation, the costs, expenses and other amounts payable by the Owner in connection with Mortgagee's enforcing its rights and remedies pursuant to this Mortgage) and the Owner has duly authorized the execution and delivery of this Mortgage.

K. [This Mortgage is made under and pursuant to Chapter 3 of Title 21 of the Liberian Code of Laws of 1956 as amended; the parties have agreed this Mortgage is made "pursuant to agreement" within the meaning of Section 106A(3). For the purposes of said section 106(A)(3), (x) the agreed-upon maximum amount (representing all the debts and obligations arising or that may arise under the Guarantees secured by this Mortgage) is Three Billion United States Dollars \$3,000,000,000 which is comprised of (i) the aggregate principal amount of Six Hundred Million United States Dollars (\$600,000,000.00) under the Revolving Credit Agreement, (ii) the aggregate principal amount of Eight Hundred Fifty Million United States Dollars (\$850,000,000.00) under the Indenture, (iv) the contingent amount of Three Hundred Million United States Dollars (\$300,000,000.00), relating to certain hedging obligations, obligations in respect of certain cash management agreements and losses resulting from fluctuations in exchange rates related to letters of credit denominated in currencies other than US Dollars, and (v) the amount of Four Hundred Million United States Dollars (\$400,000,000.00) relating to interest, fees, expenses and other costs (y) the specified period is the period from and including June 3, 2013 through and including June 3, 2030, and (z) June 3, 2030 is the date of termination of this Mortgage.] ¹

NOW, THEREFORE, THIS MORTGAGE WITNESSETH:

- 1.1 <u>Definitions</u>: Capitalized terms used in this Mortgage and not otherwise defined are used herein as defined in the Intercreditor Agreement. In this Mortgage, unless the context otherwise requires:
 - (A) "Credit Facilities" means the Revolving Credit Agreement, the Term Loan Agreement and the Indenture.
 - (B) "<u>Drilling Contract</u>" shall mean any charterparty, pool agreement or drilling contract in respect of the Vessel or other contract for use of the Vessel.
 - (C) "Earnings" shall mean (i) all freight, hire and passage moneys payable to the Company or any of its Subsidiaries as a consequence of the operation of the Vessel, including without limitation payments of any Drilling Contract, (ii) any claim under any guarantee in respect of any Drilling Contract or otherwise related to freight, hire or passage moneys, in each case payable to the Company or any of its Subsidiaries as a consequence of the operation of the Vessel; (iii) compensation payable to the Company or any of its Subsidiaries in the event of any requisition of the Vessel; (iv) remuneration for salvage, towage and other services performed by the Vessel and payable to the Company or any of its Subsidiaries; (v) demurrage and retention money receivable by the Company or any of its Subsidiaries in relation to the Vessel; (vi) all moneys which are at any time payable under the insurances in respect of loss of Earnings; (vii) if and

To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- whenever the Vessel is employed on terms whereby any moneys falling within (i) to (vi) above are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel; and (viii) other money whatsoever due or to become due to the Company or any of its Subsidiaries in relation to the operation of the Vessel.
- (D) "Indenture" means that certain Indenture dated as of the date hereof, among the Company, as issuer, and Deutsche Bank Trust Company Americas, a New York banking corporation, as trustee (in such capacity, together with its successors and assigns in such capacity, the "Trustee"), and any and all successors thereto in such capacity, as the same has been and may be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- (E) "Insurances" shall mean insurance required to be maintained by the Owner on the Vessel under the Pari Passu Documents.
- (F) "Intercreditor Agreement" means that certain Intercreditor Agreement dated as of the date hereof by and among the Pari Passu Collateral Agent, the Trustee, the Revolving Credit Agent, the Term Loan Agent, the Company, the Owner and each other Grantor, as it may be amended, restated, supplemented or otherwise modified in accordance with its terms, including pursuant to the Joinder Agreements.
- (G) "ISM Code" means the International Safety Management Code for the Safe Operating of Ships and for Pollution Prevention constituted pursuant to Resolution A.741(18) of the International Maritime Organization and incorporated into the Safety of Life at Sea Convention and includes any amendments or extensions thereto and any regulation issued pursuant thereto.
- (H) "ISM Documentation" means (i) the document of compliance and safety management certificate issued pursuant to the ISM Code in relation to the Vessel within the periods specified by the ISM Code, (ii) all other documents and data which are relevant to the safety management system which is required to be developed, implemented and maintained under the ISM Code and its implementation and verification and (iii) any other documents which are prepared or which are otherwise relevant to establish and maintain the Vessel's or the Owner's compliance with the ISM Code.
- (I) "ISPC Code" means the International Ship and Port Facility Security Code adopted by the International Maritime Organization (as the same may be amended from time to time).

- (J) "Lien" shall mean with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in such asset and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction, other than a precautionary financing statement in respect of a lease not intended as a security agreement.
- (K) "Pari Passu Collateral Agent" means Citibank, N.A, and its replacements, successors and assigns, in its capacity as the collateral agent for all holders of Pari Passu Obligations.
- (L) "<u>Requisition Compensation</u>" means all moneys or other compensation payable and belonging to the Owner by reason of requisition for title or other compulsory acquisition of the Vessel or otherwise than by requisition for hire.
- (M) "Revolving Credit Agreement" means that certain Credit Agreement, dated as of the date hereof, among the Company, as borrower, various lenders from time to time party thereto, Citibank N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Revolving Credit Agent") and issuing lender, and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- (N) "Term Loan Agreement" means that certain Term Loan Agreement dated as of the date hereof, among the Company, as borrower, the lenders from time to time party thereto, Citibank, N.A., as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Term Loan Agent"), and the other parties from time to time party thereto, as the same has been and may hereafter be further amended, restated, supplemented, refinanced, replaced or otherwise modified from time to time.
- (O) "Vessel" means the whole of the vessel described in Recital A hereof and includes its engines, machinery, boats, boilers, masts, rigging, anchors, chains, cables, apparel, tackle, outfit, spare gear, fuel, consumable and other stores, freights, belongings and appurtenances, whether on board or ashore, whether now owned or hereafter acquired, and any and all additions, improvements and replacements hereafter made in or to the said

vessel, or any part thereof, or in or to the stores, belongings and appurtenances aforesaid except such equipment or stores which, when placed aboard said vessel, do not become the property of the Owner.

2. Grant of Mortgage; Representations and Warranties .

2.1 In consideration of the premises and of other good and valuable consideration, the receipt and adequacy whereof are hereby acknowledged by the Owner, and in order to secure the payment and performance of the Pari Passu Obligations, the Owner has granted, conveyed and mortgaged, and does by these presents grant, convey and mortgage, to and in favor of the Mortgagee, its successors and permitted assigns, the whole of the Vessel <u>TO HAVE AND TO HOLD</u> the same unto the Mortgagee, its successors and assigns, forever, upon the terms set forth in this Mortgage for the enforcement of the payment and performance of the Pari Passu Obligations;

PROVIDED, ONLY, and the conditions of these presents are such that, upon Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, then these presents and the rights of the Mortgagee under this Mortgage shall cease and terminate and the security interest hereby created shall be released and, in such event, the Mortgagee agrees by accepting this Mortgage, at the expense of the Owner, to execute all such documents as the Owner may reasonably require to discharge this Mortgage under the laws of []; otherwise to be and remain in full force and effect.

2.2 The Owner hereby represents and warrants to the Mortgagee that:

	(A) The Owner is duly organized and validly existing	as a [] under the laws of [][and duly qualified as a
[] foreign maritime entity]; it is duly authorized to mo	ortgage the Vessel; all action necessary	as required by law for the execution and
delivery o	f this Mortgage has been duly and effectively taken; it h	as full power and authority to own and	I mortgage the Vessel; this Mortgage is a
	enforceable obligation of the Owner, enforceable in acco		11
into and p	erformance of this Mortgage have been duly obtained or	r given and the entering into and perfor	mance of this Mortgage does not and
will not co	ontravene the terms of or constitute a default under (with	n or without giving of notice or lapse of	f time or both) any material agreement,
instrumen	t or document to which the Owner is a party or by which	h it or its properties are bound or affect	ed. The Owner is now, and shall so
remain un	til this Mortgage is discharged, fully qualified to own ar	nd operate vessels documented under [G	Chapter 3 of Title 21 of the Liberian
Code of L	aws of 1956, as amended,] ² and except as otherwise per	rmitted hereunder, will remain qualified	d to document the Vessel in its name as
owner und	ler the laws, regulations and flag of [];		

² To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- (B) The Owner lawfully owns and is lawfully possessed of the whole of the Vessel free from any Lien whatsoever (other than Liens permitted under the Pari Passu Documents) and will warrant and defend the title and possession thereto and to every part thereof for the benefit of the Mortgagee against the claims and demands of all persons whomsoever; provided, however, that notwithstanding anything herein to the contrary, no intention to subordinate the security interest and Lien granted in favor of the Mortgagee hereunder is to be implied or expressed by the permitted existence of Liens permitted under the Pari Passu Documents; and
- (C) The Owner will cause this Mortgage to be duly recorded in [the Office of the Deputy Commissioner of Maritime Affairs of the Republic of Liberia (the "Deputy Commissioner's Office"), in accordance with the provisions of Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended, as a mortgage made "pursuant to agreement" within the meaning of Section 106A(3)] 3, and will otherwise comply with and satisfy, or cause to be complied with and satisfied, all of the provisions of applicable laws of [] in order to establish, perfect and maintain this Mortgage as a valid, enforceable and duly perfected first preferred mortgage lien thereunder upon the Vessel and upon all additions, improvements and replacements made in or to the same, in order to secure the Pari Passu Obligations.
- 3. <u>Payment of Notes Obligations</u>. The Owner acknowledges it is justly indebted under the Pari Passu Documents. The Owner hereby further covenants and agrees to pay when due the Pari Passu Obligations to the Mortgagee and the other Pari Passu Secured Parties or their respective successors or assigns and to comply with the covenants, terms and conditions herein and in the Pari Passu Documents, expressed or implied on its part to be observed, performed or complied with or applicable to it.
 - 4. Covenants Regarding Security Granted Hereunder. It is declared and agreed that:
- (A) The security created by this Mortgage shall be held by the Mortgagee as a continuing security for the payment and performance of the Pari Passu Obligations and that the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured;
- (B) Any settlement or discharge under this Mortgage between the Mortgagee and the Owner shall be conditional upon no security or payment to the Mortgagee or any other Pari Passu Secured Party by the Owner or any other Person being avoided or set-aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force, and if such condition is not satisfied, the Mortgagee shall be entitled to recover from the Owner on demand the value of such security or the amount of any such payment as if such settlement or discharge had not occurred;

³ To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- (C) The security created by this Mortgage shall be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Mortgagee without prior recourse to, the security created by any of the other Pari Passu Documents, or by any present or future collateral instruments, right or remedy held by or available to the Mortgagee, any of the other Pari Passu Secured Parties or any Person acting on their behalf or any right or remedy of the Mortgagee, the other Pari Passu Secured Parties, or any Person acting on their behalf thereunder; and
- (D) The rights of the Mortgagee under this Mortgage and the security hereby constituted shall not be prejudiced or affected by any act, omission, matter or thing which, but for this provision, might operate to impair, affect or discharge such rights and security, including without limitation, and whether or not known to or discoverable by the Owner, the Mortgagee, any of the other Pari Passu Secured Parties or any other Person:
 - (i) any time or waiver granted to, or composition with, the Owner, the Company, any of the Guarantors or any other Person; or
 - (ii) the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against the Owner, the Company, any of the Guarantors or any other Person; or
 - (iii) any legal limitation, disability, dissolution, incapacity or other circumstances relating to the Owner, the Company, any of the Guarantors or any other Person; or
 - (iv) any amendment or supplement to any Pari Passu Document; or
 - (v) the unenforceability, invalidity or frustration of any obligations of the Owner, the Company, any of the Guarantors or any other Person under any Pari Passu Document.
- 5. <u>Affirmative Covenants and Insurances</u>. The Owner further covenants with the Mortgagee and undertakes at all times until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations:
 - (A) [To maintain its qualification in good standing as a foreign maritime entity under the laws of []] 4;
- (B) To insure and keep the Vessel insured or cause or procure the Vessel to be insured and to be kept insured at no expense to the Mortgagee as provided in the Pari Passu Documents;

⁴ To be revised accordingly for an Owner that is organized and existing under the laws of the flag state and does not need to qualify as a foreign maritime entity.

(C) At all times keep the Vessel duly documented as a [] flag vessel under [] laws and the regulations in
effect thereunder from time to time, as amended, except as otherwise peri	mitted in accordance with the Pa	ri Passu Documents. Upon request of
the Mortgagee from time to time, the Owner will, as promptly as reasonal	bly practicable, advise the Mortg	gagee of the Vessel's location and of
any contract relating to the Vessel;		

- (D) The Owner will not change or permit the change of the technical or the commercial management of the Vessel in violation of the Pari Passu Documents;
- (E) To pay and discharge when due and payable, from time to time, all material taxes, assessments, governmental charges, fines and penalties lawfully imposed on the Vessel or any income therefrom to the extent required by the Pari Passu Documents;
- (F) To keep the Vessel in a good and efficient state of repair so as to maintain its present class with [] (or such other classification society of like standing) and so as to comply with the provisions of all laws, regulations and requirements (statutory or otherwise) from time to time applicable to vessels registered under the laws and flag of [], including, without limitation, to obtain all necessary ISM Documentation and to comply with the provisions of both the ISM Code and the ISPC Code;
- (G) To submit or to cause the Vessel to be submitted to such periodical or other surveys as may be required for classification purposes and to supply to the Mortgagee upon request copies of all survey reports and class certificates issued in respect thereof;
- (H) If an Event of Default shall have occurred and be continuing, to permit or to cause the Mortgagee to be permitted by surveyors or other Persons appointed by it on its behalf to board the Vessel at all reasonable times for the purpose of inspecting its condition or for the purpose of satisfying themselves in regard to proposed or executed repairs and to afford all proper facilities aboard the Vessel for such inspections (in a manner and at a time not to interfere with the normal operation of the Vessel);
- (I) (i) To pay and discharge or cause to be paid and discharged all debts, damages and liabilities whatsoever which have given or may give rise to maritime or possessory Liens on or claims enforceable against the Vessel except for Liens permitted under the Pari Passu Documents and (ii) in event of arrest of the Vessel pursuant to legal process or in event of its detention in exercise or purported exercise of any such Lien as aforesaid to procure the release of the Vessel from such arrest or detention within fifteen (15) days of receiving notice thereof by providing bail or otherwise as the circumstances may require;
- (J) Not to employ the Vessel or suffer its employment in any trade or business which is forbidden by applicable law or in carrying illicit or prohibited goods or in any manner whatsoever which may render it liable to condemnation or to destruction, seizure or confiscation and in event of hostilities in any part of the world (whether war be declared or not) not to employ the Vessel or suffer its employment in carrying any contraband goods or to enter or trade to or to

continue to trade in any zone after it is declared a war zone by any government or by the Vessel's war risk insurers unless the Mortgagee shall have first given its consent thereto in writing and the Owner at its expense shall have obtained such special insurance coverage as to extend to such voyage;

- (K) Promptly to furnish or to use its best efforts to cause promptly to be furnished to the Mortgagee, to the extent not prohibited by any obligation of confidentiality, all such information as the Mortgagee may from time to time reasonably request regarding the Vessel, its employment, position and engagements, particulars of all towages and salvages and copies of all charters and other contracts for its employment or otherwise howsoever pertaining to the Vessel;
- (L) Promptly after learning of the same to notify or cause to be notified to the Mortgagee forthwith by electronic means (thereafter confirmed by letter) of:
 - (i) any arrest or requisition of the Vessel or the exercise or purported exercise of any Lien on the Vessel or its Earnings; and
 - (ii) any occurrence or circumstances forming the basis of any material environmental claims.
- (M) To keep or to cause to be kept proper books of account of the Owner in respect of the Vessel and the Earnings and, if requested by the Mortgagee, to make such books available for inspection on behalf of the Mortgagee;
- (N) To keep the Vessel duly documented as a [] flag vessel under [] laws and the regulations in effect thereunder from time to time, as amended, except as otherwise permitted in accordance with the Pari Passu Documents;
- (O) Not, unless expressly permitted by the terms of the Pari Passu Documents, to sell, abandon or otherwise dispose of the Vessel or any interest therein or to suffer the disposition of any thereof;
- (P) To pay promptly to the Mortgagee all moneys (including reasonable fees and expenses of counsel) whatsoever which the Mortgagee shall or may expend, be put to or become liable for, in or about the protection, maintenance or enforcement of the security created by this Mortgage or in or about the exercise by the Mortgagee of any of the powers vested in it hereunder;
- (Q) To comply with and satisfy all the requisites and formalities established by the laws of [] to perfect this Mortgage as a legal, valid and enforceable first and preferred mortgage lien upon the Vessel and upon all additions, improvements and replacements made in or to the same, in order to secure the Pari Passu Obligations and to furnish to the Mortgagee from time to time such proofs as the Mortgagee may reasonably request for its satisfaction with respect to the compliance by the Owner with the provisions of this Section 5(P); and

(R) To place or to cause to be placed and at all times and places to retain or to cause to be retained a properly certified copy of this Mortgage on board the Vessel with its papers and cause this Mortgage to be exhibited to any and all Persons having business with the Vessel which might give rise to any Lien thereon other than Liens permitted under the Pari Passu Documents, and to any representative of the Mortgagee on demand; and to place and keep or to cause to be placed and keep prominently displayed in the chart room and in the Master's cabin of the Vessel a framed printed notice in plain type in English of such size that the paragraph of reading matter shall cover a space not less than six inches wide by nine inches high, reading as follows:

" NOTICE OF MORTGAGE

This Vessel is owned by [] and is subject to a First Preferred Mortgage in favor of CITIBANK, N.A., as Pari Passu Collateral Agent, as Mortgagee under the authority of [the Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended] ⁵. Under the terms of the said First Preferred Mortgage, neither the Owner nor any charterer nor the Master of this Vessel nor any other person has any power, right or authority whatever to create, incur or permit to be imposed upon this Vessel any lien or encumbrance except for the lien of this Mortgage, and Liens permitted under the Pari Passu Documents."

- 6. Mortgagee's Right to Cure. Without prejudice to any other rights, powers and remedies of the Mortgagee hereunder:
- (i) in the event that the provisions relating to the maintenance of insurance on the Vessel under the Pari Passu Documents or any of them shall not be complied with, the Mortgagee shall be at liberty, but not obligated and as often as may be necessary, to cure any such noncompliance, including, without limitation, to effect and thereafter to replace, maintain and renew all such insurances upon the Vessel as it in its sole discretion may deem necessary or advisable in order to procure the compliance with such provisions or alternatively, to require the Vessel (at the Owner's risk) to remain in, or to proceed to and remain in, a port designated by the Mortgagee until such provisions are fully complied with;
- (ii) in the event that the provisions of Sections 5(C), 5(F) and/or 5(G), and/or 5(J) and/or 5(N) hereof or any of them shall not be complied with, the Mortgagee shall be at liberty, but not obligated and as often as may be necessary, to arrange for the carrying out of such repairs, changes and/or surveys as it deems reasonably expedient or necessary in order to procure the compliance with such provisions; and

To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

(iii) in the event that the provisions of Section 5(I) hereof or any of them shall not be complied with, the Mortgagee shall be at liberty, but not obligated and as often as may be necessary, to pay and discharge all such debts, damages and liabilities as are therein mentioned and/or to take any such measures as it deems reasonably expedient or necessary for the purpose of securing the release of the Vessel in order to procure the compliance with such provisions.

Any and all reasonable expenses incurred by the Mortgagee (including reasonable fees and expenses of counsel) in respect of its performances under the foregoing sub-sections (i), (ii) and (iii) shall be paid by the Owner on demand and shall constitute Pari Passu Obligations hereunder.

- 7. Events of Default and Remedies . If an Event of Default shall have occurred and be continuing, the Mortgagee shall have the right, subject to and in accordance with the terms of the Intercreditor Agreement, to:
 - (i) demand payment by written notice to the Owner of the Pari Passu Obligations, whereupon such payment by the Owner to the Mortgagee shall be immediately due and payable, anything contained in any Pari Passu Document to the contrary notwithstanding and without prejudice to any other rights and remedies of the Mortgagee or the other Pari Passu Secured Parties under any Pari Passu Document;
 - (ii) at any time and as often as may be necessary, take any such action as the Mortgagee may in its discretion deem necessary or advisable for the purpose of protecting the security created by this Mortgage and each and every expense or liability (including reasonable fees and expenses of counsel) so incurred by the Mortgagee in or about the protection of such security shall be repayable to it by the Owner promptly after demand, and shall constitute Pari Passu Obligations hereunder. The Owner shall promptly execute and deliver to the Mortgagee such documents or cause promptly to be executed and delivered to the Mortgagee such documents, if any, and shall promptly do and perform such acts, if any, as in the reasonable opinion of the Mortgagee or its counsel may be necessary or advisable to facilitate or expedite the protection, maintenance and enforcement of the security created by this Mortgage;
 - (iii) exercise all the rights and remedies in foreclosure and otherwise given to the Mortgagee by any applicable law, including, without limitation, those under the provisions of [Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended] ⁶;

⁶ To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

- (iv) take possession of the Vessel, at any time wherever the same may be, without prior demand and without court decision or legal process (when permissible under applicable law) and without being responsible for loss or damage (except to the extent such loss or damage result from the gross negligence, bad faith, or willful misconduct of the Mortgagee, as determined by a court of competent jurisdiction in a final and non appealable decision), and the Owner or other person in possession forthwith upon demand of the Mortgagee shall surrender to the Mortgagee possession of the Vessel. At the request of the Mortgagee, the Owner shall instruct officers and other senior personnel to remain on board to operate the Vessel for a reasonable period of time. The Mortgagee may, without being responsible for loss or damage (except to the extent such loss or damage result from the gross negligence, bad faith, or willful misconduct of the Mortgagee, as determined by a court of competent jurisdiction in a final and nonappealable decision), hold, lay up, lease, charter, operate or otherwise use the Vessel for such time and upon such terms as it may deem to be for its best advantage, and demand, collect and retain all hire, freights, earnings, issues, revenues, income, profits, return premiums, salvage awards or recoveries, recoveries in general average, and all other sums due or to become due in respect of the Vessel or in respect of any insurance thereon from any person whomsoever, accounting only for the net profits, if any, arising from such use of the Vessel, and charging upon all receipts from the use of the Vessel or from the sale thereof by court proceedings or pursuant to Section 7(ix) below), all costs, expenses, charges, damages or losses by reason of such use, provided that the Mortgagee provides the Owner with a final accounting. If at any time the Mortgagee shall avail itself of the right herein given it to take the Vessel, the Mortgagee shall have the right to dock or store the Vessel for a reasonable time at any dock, pier or other premises of the Owner without charge, or to dock or store the Vessel at any other place at the cost and expense of the Owner. The Mortgagee shall have the right to require the Owner to deliver, and the Owner shall on demand, at its own cost and expense, deliver to the Mortgagee the Vessel as demanded; and the Owner hereby irrevocably instructs the master of the Vessel so long as this Mortgage is outstanding to deliver the Vessel to the Mortgagee as demanded;
- (v) require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be forthwith delivered to such adjusters, brokers and/or other insurers as the Mortgagee may nominate;
- (vi) collect, recover, compromise and give a good discharge for all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of the Vessel, the Earnings or Requisition Compensation or any part thereof, and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Mortgagee in its absolute discretion deems necessary or advisable, and, in the case of the Insurances, to permit any brokers through whom collection or recovery is effected to charge the usual brokerage therefor;

- (vii) discharge, compound, release or compromise claims against the Owner in respect of the Vessel, the Earnings or Requisition Compensation or any part thereof which have given or may give rise to any charge or Lien or other claim on the Vessel, the Earnings or Requisition Compensation or any part thereof or which are or may be enforceable by proceedings against the Vessel;
- (viii) take appropriate judicial proceedings for the foreclosure of this Mortgage and/or for the enforcement of the Mortgagee's rights hereunder or otherwise; recover judgment for any amount due by the Owner under the Pari Passu Documents and collect the same out of any property of the Owner;
- (ix) as permitted by applicable laws, and without being responsible for loss or damage, sell the Vessel, free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract (without necessity of bringing the Vessel to the place designated for such sale) at such time and place and upon such terms as the Mortgagee in its absolute discretion may determine with power to postpone any such sale and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with the power, where the Mortgagee purchases the Vessel, to make payment of the sale price by making an equivalent reduction in the amount of the Pari Passu Obligations. In the event of a public auction, the Mortgagee shall give the Owner notice of the time and place of any public auction with a general description of the property in the following manner:
 - (i) by publishing such notice for ten (10) consecutive days in the Wall Street Journal and another daily newspaper of general circulation published in New York City;
 - (ii) if the place of sale should not be New York City, then also by publication of a similar notice in a daily newspaper, if any, published at the place of sale; and
 - (iii) by mailing a similar notice to the Owner at its last known address and to any other known mortgagee.

If the sale shall be by private sale, the Mortgagee shall give notice of the time and place of such private sale at least three (3) Business Days prior to the proposed date of such sale by mailing such notice to the Owner at its last known address. Each of the Owner and the Mortgagee agrees that any sale made in accordance with the terms of this Subsection 7(ix) is deemed to be made in a commercially reasonable manner;

- (x) pending sale of the Vessel (either directly or indirectly) as permitted by the applicable laws, manage, charter, lease, insure, maintain and repair the Vessel and to employ, sail or lay up the Vessel upon such terms, in such manner and for such period as the Mortgagee may reasonably deem expedient, and for any and/or all of the purposes aforesaid the Mortgagee shall be entitled to do all acts and things incidental or conducive thereto and in particular to enter into such arrangements respecting the Vessel, its insurance, management, maintenance, repair, classification and employment in all respects as if the Mortgagee were the owner of the Vessel, without being responsible for loss or damage (except to the extent such loss or damage results from the gross negligence, bad faith, or willful misconduct of the Mortgagee, as determined by a court of competent jurisdiction in a final and non appealable decision);
- (xi) recover from the Owner on demand any such losses as may be incurred by the Mortgagee in or about the exercise of the powers vested in the Mortgagee under Section 7(x) above;
- (xii) recover from the Owner on demand all reasonable expenses, payments and disbursements (including fees and expenses of counsel) incurred by the Mortgagee in or about or incidental to the exercise by it of any or all of the powers vested in it hereunder; and
- (xiii) any sale of the Vessel in accordance with the terms of this Mortgage, whether under the power of sale hereby granted or any judicial proceedings, shall operate to divest all right, title and interest of any nature whatsoever of the Owner therein and thereto and shall bar any claim from the Owner, its successors and assigns, and all persons claiming by, through or under them. No purchaser shall be bound to inquire whether notice has been given, or whether any default has occurred, or as to the propriety of the sale, or as to the application of the proceeds thereof. In the case of any such sale, the Mortgagee shall be entitled, for the purpose of making settlement or payment for the property purchased, to use and apply the Pari Passu Obligations hereby secured in order that there may be credited against the amount remaining due and unpaid thereon the sums payable out of the net proceeds of such sale to the Mortgagee with respect to the Pari Passu Obligations after allowing for the costs and expense of sale and other charges; and thereupon such purchaser shall be credited, on account of such purchase price, with the net proceeds that shall have been so credited with respect to the Pari Passu Obligations. At any such sale, the Mortgagee may bid for and purchase such property and upon compliance with the terms of sale may hold, retain and dispose of such property without further accountability therefor.
- (xiv) The Mortgagee is hereby appointed attorney-in-fact of the Owner upon the happening and continuance of any Event of Default to execute and deliver to any

purchaser aforesaid, and is hereby vested with full power and authority to make, in the name and on behalf of the Owner, a good conveyance of the title to the Vessel so sold. In the event of a sale of the Vessel under any power herein contained, the Owner will, if and when required by the Mortgagee, execute such form of conveyance of the Vessel and other related documents, as the Mortgagee may direct or approve. The powers and authority granted to the Mortgagee herein have been given for a valuable consideration and are hereby declared to be irrevocable.

Whenever any right to enter and take possession of the Vessel accrues to the Mortgagee, it may require the Owner to deliver, and the Owner shall on demand, at its own cost and expense, deliver to the Mortgagee the Vessel as demanded. In such circumstances, the Owner also agrees to deliver to the Mortgagee on its request all insurance class certificates and surveys, flag state certificates, trading certificates, compliance Certificates, plans and specifications and any other documents or instruments relating to the Vessel.

In case the Mortgagee shall have proceeded to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Mortgagee, then and in every such case the Owner and the Mortgagee shall be restored to their former positions and rights hereunder with respect to the property, subject or intended to be subject to this Mortgage, and all rights, remedies and powers of the Mortgagee shall continue as if no such proceedings had been taken.

8. <u>Application of Proceeds</u>. The proceeds of any sale made either under the power of sale granted to the Mortgagee hereunder or under a judgment or decree in any judicial proceedings for the foreclosure of this Mortgage or for the enforcement of any remedy granted to the Mortgagee hereunder, any net earnings arising from the management, charter or other use of the Vessel by the Mortgagee under any of the powers herein contained or by law provided, the proceeds of any and all Insurances and any claims for damages on account of the Vessel or the Owner of any nature whatsoever and any Requisition Compensation, shall be applied in accordance with the terms of the Intercreditor Agreement.

In the event that the proceeds are insufficient to pay in full the Pari Passu Obligations, the Mortgagee shall be entitled to collect the balance from the Owner or any other Person liable therefor.

9. No Waiver. No delay or omission of the Mortgagee to exercise any right or power or remedy vested in it under any Pari Passu Document shall impair such right or power or be construed as a waiver thereof or as acquiescence in any default by the Owner hereunder, nor shall the acceptance by the Mortgagee of any payments in connection with this Mortgage from any source be deemed a waiver hereunder. No single or partial exercise by the Mortgagee of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Mortgagee to enforce any right, power or remedy shall preclude any

other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy, nor shall the giving by the Mortgagee of any consent to any act which by the terms of this Mortgage requires such consent prejudice the right of the Mortgagee to give or withhold consent to the doing of any other similar act.

- 10. <u>Delegation of Power</u>. The Mortgagee shall be entitled at any time and as often as may be expedient to delegate all or any of the powers and discretions vested in it by this Mortgage (including the power vested in it by virtue of Section 12 hereof) in such manner and upon such terms and to such Persons as the Mortgagee in its absolute discretion may deem advisable.
- 11. <u>Indemnity</u>. Without prejudice to any other rights or remedies of the Mortgagee under any Pari Passu Document, the Owner hereby agrees to indemnify, defend and save and hold harmless, the Mortgagee and each of its officers, directors, employees, agents and advisors (each, an "<u>Indemnified Party</u>") from and against, and shall pay on demand any and all claims, damages, losses, liabilities and expenses (including, without limitation, reasonable fees and expenses of counsel) that may be incurred by or asserted or awarded against any Indemnified Party, in each case arising out of or in connection with or resulting from this Mortgage or the performance or exercise of any rights or remedies hereunder or otherwise in connection with the Vessel (including, without limitation, its operations or any environmental claims in respect thereof), the Earnings, Requisition Compensation and Insurances, or otherwise howsoever arising out of or in connection with the enforcement of the Mortgagee's rights and remedies hereunder, under any Pari Passu Document, except to the extent such claim, damage, loss, liability or expense is found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from an Indemnified Party's gross negligence, bad faith or willful misconduct.

12. Power of Attorney.

(A) The Owner hereby irrevocably appoints the Mortgagee as its attorney-in-fact, until Discharge of Revolving Credit Obligations and Discharge of all Pari Passu Obligations, to do in the name of the Owner all acts which the Owner, or its successors or assigns, could do in relation to the Vessel, including without limitation, to demand, collect, receive, compromise, settle and sue for (insofar as the Mortgagee lawfully may) all freights, hire, earnings, issues, revenues, income and profits of the Vessel, and all amounts due from underwriters under the Insurances as payment of losses or as return premiums or otherwise, salvage awards and recoveries, recoveries in general average or otherwise, and all other sums due or to become due to the Owner in respect of the Vessel, and to make, give and execute in the name of the Owner, acquittance, receipts, releases or other discharges for the same, whether under seal or otherwise, to take possession of, sell or otherwise dispose of or manage or employ, the Vessel, to execute and deliver charters and a bill of sale with respect to the Vessel, and to endorse and accept in the name of the Owner all checks, notes, drafts, warrants, agreements and all other instruments in writing with respect to the foregoing; PROVIDED, HOWEVER, that, unless the context otherwise permits under this Mortgage, such power shall not be exercisable by or on behalf of the

Mortgagee unless and until an Event of Default has occurred and is continuing. The power of attorney hereby conferred shall be a general power of attorney and the Owner ratifies and confirms, and agrees to ratify and confirm, any deed, assurance, agreement, instrument, act or thing which the Mortgagee may execute or do pursuant thereto. The powers and authority granted to the Mortgagee herein have been given for a valuable consideration and are hereby declared to be irrevocable.

- (B) The exercise of the power granted in this Section 12 by or on behalf of the Mortgagee shall not require any Person dealing with the Mortgagee to conduct any inquiry as to whether any Event of Default has occurred and is continuing, nor shall such Person be in any way affected by notice that any Event of Default has not occurred nor is continuing, and the exercise by the Mortgagee of such power shall be conclusive evidence of its right to exercise the same.
- 13. <u>Appointment of Receiver</u>. If any legal proceedings shall be taken to enforce any right under this Mortgage, the Mortgagee shall be entitled as a matter of right to the appointment of a receiver of the Vessel and of the freights, hire, earnings, issues, revenues, income and profits due or to become due and arising from the operation thereof.
- 14. Commencement of Proceedings/Appearance in Proceedings . (a) The Mortgagee shall have the right to commence proceedings in the courts of any country having competent jurisdiction and in particular the Mortgagee shall have the right to arrest and take action against the Vessel at whatever place the Vessel shall be found lying and the Owner agrees that for the purpose of proceedings against the Vessel any writ, notice, judgment or other legal process or documents may be served upon the Master of the Vessel (or upon anyone acting as the Master) and that such service shall be deemed good service on the Owner for all purposes.
- (b) The Owner authorizes and empowers the Mortgagee or its appointees or any of them, and hereby appoints the Mortgagee as its attorney-in-fact, to appear in the name of the Owner, its successors and assigns, in any court of any country or nation of the world where a suit is pending against the Vessel because of or on account of an alleged Lien against the Vessel from which the Vessel has not been released and to take such proceedings as to them or any of them may seem proper towards the defense of such suit and the purchase or discharge of such Lien. All expenditures made or incurred by them or any of them for the purpose of such defense or purchase or discharge shall be a debt due from the Owner, its successors and assigns, to the Mortgagee, and shall be secured by the lien of this Mortgage in like manner and extent as if the amount and description thereof were written herein. The Mortgagee agrees not to exercise the powers given to it in this Section 14(b) unless an Event of Default shall have occurred and be continuing.

The Mortgagee shall be entitled (after an Event of Default shall have occurred and be continuing) to settle, compromise, refer to arbitration or mediation, or institute any suit or other proceeding respecting any Lien or other claim against the Vessel, in each case at its sole discretion and without any consent or approval of the Owner. Any agreements made by the Mortgagee under this Section 14 shall be deemed made in good faith and commercially reasonable by the Owner.

- 15. <u>Partial Invalidity</u>. In the event that any provision or provisions of this Mortgage shall be declared invalid, void or otherwise inoperative by any present or future court of competent jurisdiction in any country, the Owner will, without prejudice to any other right and remedy of the Mortgagee under any Pari Passu Document, execute and deliver such other and further instruments and do such things as in the reasonable opinion of the Mortgagee or its counsel will be necessary or advisable to carry out the true intent and spirit of this Mortgage. In any event, any such declaration of partial invalidity shall not affect the validity of any other provision or provisions of this Mortgage, or the validity of this Mortgage as a whole.
- 16. <u>Further Assurances</u>. The Owner hereby undertakes at its own expense from time to time to execute, sign, perfect, do and (if required), register every such further assurance, document, act or thing as in the reasonable opinion of the Mortgagee may be necessary or desirable for the purpose of more effectually mortgaging and charging the Vessel or perfecting the security constituted or intended to be constituted by this Mortgage or contemplated by any Pari Passu Document.
- 17. <u>Cumulative Remedies</u>. Each and every power and remedy in this Mortgage specifically given to the Mortgagee shall be in addition to every other power and remedy herein or in any Pari Passu Document specifically given or now or hereafter existing at law, in equity, admiralty, or by statute, and each and every power and remedy whether specifically in this Mortgage or in any Pari Passu Document given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Mortgagee, and the exercise or the beginning of the exercise of any such power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other power or remedy under any Pari Passu Document.
- 18. Recordation of Mortgage. [For the purpose of recording this Mortgage as required by Chapter 3 of Title 21 of the Liberian Code of Laws of 1956, as amended; the parties have agreed this Mortgage is made "pursuant to agreement" within the meaning of Section 106A(3). For the purposes of said section 106(A)(3),(x) the agreed-upon maximum amount (representing all the debts and obligations arising or that may arise under the Guarantees secured by this Mortgage) is Three Billion United States Dollars US\$3,000,000,000 which is comprised of (i) the aggregate principal amount of Six Hundred Million United States Dollars (\$600,000,000.00) under the Revolving Credit Agreement, (ii) the aggregate principal amount of Eight Hundred Fifty Million United States Dollars (\$850,000,000.00) under the Term Loan Agreement, (iii) the aggregate principal amount of Eight Hundred Fifty Million United States Dollars (\$850,000,000.00) under the Indenture, (iv) the contingent amount of Three Hundred Million United States Dollars (\$300,000,000.00), relating to certain hedging obligations, obligations in respect of certain cash management agreements and losses resulting from fluctuations in exchange rates related to letters of credit denominated in currencies other than US Dollars, and (v) the amount of Four Hundred Million United States Dollars (\$400,000,000.00) relating to interest, fees, expenses and other costs (v) the specified period is the period from and

including June 3, 2013 through and including June 3, 2030, and (z) June 3, 2030 is the date of termination of this Mortgage. It is not intended that this Mortgage shall include property other than the Vessel and it shall not include property other than the Vessel as the term "vessel" is used in subdivision 1 of Section 106 of Chapter 3 of the Title 21 of the Liberian Code of Laws of 1956, as amended. Notwithstanding the foregoing, for property other than the Vessel, if any should be determined to be covered by this Mortgage, the discharge amount is zero point zero one percent (0.01%) of the total amount.] ⁷

- 19. No Waiver of Preferred Status. Anything herein to the contrary notwithstanding, it is intended that nothing herein shall waive the preferred status of this Mortgage under the laws of [] or under the corresponding provisions of any other jurisdiction in which it is sought to be enforced and that, if any provision or portion thereof herein shall be construed to waive the preferred status of this Mortgage, then such provision to such extent shall be void and of no effect.
- 20. <u>Counterparts</u>. This Mortgage may be executed in any number of counterparts each of which shall be an original but such counterparts shall together constitute but one and the same instrument.
- 21. <u>Notices</u>. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and addressed to such party at:

 If to the Owner:

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 Attention:
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 Facsimile:
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To be included for Liberian vessels and with appropriate modifications for vessels flagged elsewhere.

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CITIBANK, N.A	Α.		
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or in any case at such other address as such party may hereafter notify the other party hereto in writing.

The Owner or the Mortgagee, may in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 22. Rights of Owner. Unless and until one or more Events of Default shall have occurred and be continuing, to the extent not prohibited by, and subject to the terms of, the Pari Passu Documents, the Owner (a) shall be suffered and permitted to retain actual possession and use of the Vessel, including, without limitation, the right to enter into drilling contracts, charters and other similar agreements with regard to the Vessel and (b) shall have the right, from time to time in its discretion, and without application to the Mortgagee, and without obtaining a release thereof by the Mortgagee, to dispose of, free from the Lien hereof, any boilers, engines, machinery, masts, spars, sails, rigging, boats, anchors, cables, chains, tackle, apparel, furniture, fittings, equipment or any other appurtenances of the Vessel that are no longer useful, necessary, profitable or advantageous in the operation of the Vessel, first or simultaneously replacing the same by new or used boilers, engines, machinery, masts, spars, sails, rigging, boats, anchors, cables, chains, tackle, apparel, furniture, fittings, equipment or any other appurtenances of substantially equal value, which shall forthwith become subject to the Lien of this Mortgage.
- 23. <u>Waiver</u>; <u>Amendment</u>. No amendment, modification or waiver of any provision of this Mortgage, and no consent to any departure by the Owner herefrom, shall be effective unless the same is in writing and conforms to the requirements set forth in Section 4.5(b) of the Intercreditor Agreement.
- 24. <u>Successors and Assigns</u>. All the covenants, promises, stipulations and agreements of the Owner and all the rights and remedies of the Mortgagee contained in this Mortgage shall bind the Owner, its successors and assigns, and shall inure to the benefit of the Mortgagee, its successors and assigns, whether so expressed or not.
 - 25. Applicable Law. This Mortgage shall be governed by, and construed in accordance with, the laws of [].

- 26. <u>Headings</u>. In this Mortgage, section headings are inserted for convenience of reference only and shall be ignored in the interpretation of this Mortgage.
 - 27. Mortgagee.
 - 27.1 The Mortgagee shall not be required or responsible:
- (A) to record, register, document, file, perfect, protect, maintain or renew any security interest in the Vessel or this Mortgage and it is understood for the avoidance of doubt that the Owner shall be solely responsible for any and all of the foregoing; and
- (B) to monitor, observe, oversee or investigate the operations, status or activities of the Vessel or the Owner's compliance and performance with any of the terms, conditions, covenants and agreements set forth in this Mortgage.
- 27.2 The Mortgagee shall be entitled to all of the rights, protections, privileges and immunities accorded to it under Section 3.4 of the Intercreditor Agreement.
- 28. <u>Force Majeure</u>. The Mortgagee shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of the Mortgagee that prevents the Mortgagee from performing such act or fulfilling such duty, obligation or responsibility hereunder (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, civil unrest, local or national disturbance or disaster, any act of terrorism, or the unavailability of the Federal Reserve Bank wire, facsimile or other wire or communication facility).
- 29. <u>Conflict.</u> In the event of a direct conflict between this Mortgage and the Intercreditor Agreement, the Intercreditor Agreement shall control; provided, however, the parties understand and agree that this Mortgage sets forth additional covenants, obligations and rights and the parties will use all reasonable efforts to construe the provisions and covenants in this Mortgage as not being in direct conflict with the Intercreditor Agreement.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Exhibit J Page 24

IN WITNESS WHEREOF, the Owner has executed this Mortgage by its duly authorized representative on the day and year first above written.

[Signature Page to First Preferred Mortgage]

[NAME OF OWNER]
By: Name: Title:

ACKNOWLEDGMENT OF MORTGAGE

STATE OF)	
COUNTY OF	ss:)	
depose and say the	[•] day of [•], 20[•], before me personally appeared [•], to me known, t (s)he resides at [•], that (s)he is a/an [•] of [•], the company described in a e; and that (s)he signed his/her name thereto pursuant to authority granted to him/her	and which executed the foregoing First
		Notary Public

EXHIBIT A

Revolving Credit Agreement, [together with form of [together with form of Note, and form of guarantee] but without other annexes, schedules or exhibits

[See attached.]

EXHIBIT B

Term Loan Agreement, [[together with form of Note, and form of guarantee] but without other annexes, schedules or exhibits [See attached.]

Exhibit B-1

EXHIBIT C

Indenture, [together with form of Note] but without other annexes, schedules or exhibits

[See attached.]

Exhibit C-1

EXHIBIT D

Form of Intercreditor Agreement

[See attached.]

Exhibit D-1

FORM OF INTERCOMPANY SUBORDINATION AGREEMENT

THIS INTERCOMPANY SUBORDINATION AGREEMENT, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, this "Agreement"), made by each of the undersigned (each, a "Party" and, together with any entity that becomes a party to this Agreement after the date hereof pursuant to Section 6 hereof, the "Parties"), for the benefit of the holders of the Pari Passu Obligations (as such term is defined in the Intercreditor Agreement referred to below). Unless otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed to them in the Intercreditor Agreement.

WITNESSETH:

WHEREAS, Pacific Drilling S.A. (the "Borrower"), the lenders from time to time party thereto, and Citibank, N.A., as administrative agent (in such capacity, the "Revolving Credit Agreement Agent"), have entered into a Credit Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Revolving Credit Agreement"), providing for the making of revolving loans to the Borrower and the issuance of letters of credit for the account of the Borrower or any of its Restricted Subsidiaries (as used in this instance only, as defined in the Revolving Credit Agreement) as contemplated therein;

WHEREAS, the Borrower, the lenders from time to time party thereto, and Citibank, N.A., as administrative agent (in such capacity, the "<u>Term Loan Agent</u>"), have entered into a Term Loan Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "<u>Term Loan Agreement</u>"), providing for the making of term loans to the Borrower as contemplated therein:

WHEREAS, the Borrower, its subsidiaries party thereto as guarantors, and Deutsche Bank Trust Company Americas, as trustee (in such capacity, the "<u>Trustee</u>"), have entered into an Indenture, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "<u>Indenture</u>"), pursuant to which the Borrower has issued its 5.375% senior secured notes due 2020;

WHEREAS, the Borrower, certain of the other Parties, Citibank, N.A., in its capacity as Pari Passu Collateral Agent (as defined in the Intercreditor Agreement), the Revolving Credit Agent, the Term Loan Agent, and the Trustee have entered into an Intercreditor Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Intercreditor Agreement");

WHEREAS, pursuant to the terms of certain of the Pari Passu Documents, the Borrower and/or one or more other Grantors may be or may become indebted to any Restricted Subsidiary (as defined in the applicable Pari Passu Document) of the Borrower that is not a Grantor (the Indebtedness of any Grantor in respect of loans, advances or other extensions of credit (including, without limitation, pursuant to guarantees thereof or security thereof) owed to any Restricted Subsidiary of the Borrower that is not a Grantor, the interest thereon and any other amounts payable in respect thereof are hereinafter collectively referred to as "Subordinated Intercompany Loans"); and

WHEREAS, as required by the terms of certain of the Pari Passu Documents, the Parties hereto have agreed to cause all Subordinated Intercompany Loans to be subordinated to the Pari Passu Obligations in the manner set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Parties hereby agree as follows:

- 1. The Subordinated Intercompany Loans and all payments of principal, interest and other amounts thereunder are hereby, and shall continue to be, subject and subordinate in right of payment to the prior payment in full, in cash, of all Pari Passu Obligations to the extent and in the manner set forth herein. The foregoing subordination shall apply notwithstanding the availability of any collateral to the holders of Pari Passu Obligations or the holders of Subordinated Intercompany Loans or the actual date and time of execution, delivery, recordation, filing or perfection of any security interests granted with respect to the Pari Passu Obligations or the Subordinated Intercompany Loans, as the case may be, or the lien or priority of payment thereof, and also shall apply in any instance wherein the Pari Passu Obligations or any claim for the Pari Passu Obligations is subordinated, avoided or disallowed, in whole or in part, under Title 11 of the United States Code (as now or hereafter in effect, or any successor thereto, the "Bankruptcy Code") or other applicable federal, foreign, state or local law. In the event of a proceeding, whether voluntary or involuntary, for insolvency, liquidation, reorganization, dissolution, bankruptcy or other similar proceeding pursuant to the Bankruptcy Code or other applicable federal, foreign, state or local law (each, a "Bankruptcy Proceeding"), the Pari Passu Obligations shall include all interest accrued on the Pari Passu Obligations, in accordance with, and at the rates specified in, the Pari Passu Documents, both for periods before and for periods after the commencement of any of such proceedings, even if the claim for such interest is not allowed pursuant to the Bankruptcy Code or other applicable law.
- 2. Each Party (in its capacity as a lender of any Subordinated Intercompany Loans) hereby agrees that until the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations:
 - (a) such Party shall not, without the prior written consent of the Pari Passu Collateral Agent, which consent may be withheld or conditioned in the Pari Passu Collateral Agent's sole discretion, commence, or join or participate in, any acceleration of all or any part of any Subordinated Intercompany Loans, any foreclosure proceeding, the exercise of any power of sale, the obtaining of a receiver, the seeking of payment of default interest, the suing on, or otherwise taking action to enforce the obligation of any Grantor or any other Person liable thereon to pay any amounts relating to any Subordinated Intercompany Loans, the exercising of any banker's lien or rights of set-off or recoupment, the institution of a Bankruptcy Proceeding against any Grantor or any other Person liable thereon, or the taking of any other enforcement action against any asset or property of any Grantor or any other Person liable thereon;

(b) in the event that (i) all or any portion of any Pari Passu Obligations is not paid when due (whether at stated maturity, by acceleration or otherwise), (ii) (x) any Event of Default then exists or would result from any payment on the Subordinated Intercompany Loans and (y) a Triggering Event has occurred and not been rescinded by the Pari Passu Collateral Agent, (iii) such Party receives any payment or prepayment of principal, interest or other amounts, in whole or in part, of (or with respect to) the Subordinated Intercompany Loans in violation of the terms of this Agreement or any Pari Passu Document or (iv) any distribution, division or application, partial or complete, voluntary or involuntary, by operation of law or otherwise, is made of all or any part of the property, assets or business of any Grantor or the proceeds thereof, in whatever form, to any creditor or creditors of any Grantor or to any holder of indebtedness of any Grantor, by reason of any liquidation, dissolution or other winding up of any Grantor or its respective businesses, or of any receivership or custodianship for any Grantor or of all or substantially all of its respective property, or of any insolvency or bankruptcy proceedings or assignment for the benefit of creditors or any proceeding by or against any Grantor for any relief under any bankruptcy, reorganization or insolvency law or laws, federal, foreign, state or local, or any law, federal, foreign, state or local relating to the relief of debtors, readjustment of indebtedness, reorganization, composition or extension, then, and in any such event, (A) no payment or distribution of any kind or character (whether in cash, property, securities or otherwise) shall be made on (or in respect of) any Subordinated Intercompany Loans nor shall any such payment or distribution be permitted to be received or retained by (or on behalf of) any holder of a Subordinated Intercompany Loan and (B) if notwithstanding preceding clause (A), any payment or distribution of any kind or character (whether in cash, property, securities or otherwise) which shall be payable or deliverable with respect to any or all of the Subordinated Intercompany Loans or which has been received by (or on behalf of) any Party shall be held in trust by such Party for the benefit of the holders of the Pari Passu Obligations and shall forthwith be paid or delivered directly to the holders of the Pari Passu Obligations for application to the payment of the Pari Passu Obligations to the extent necessary to make payment in full in cash of all sums due under the Pari Passu Obligations remaining unpaid after giving effect to any concurrent payment or distribution to the holders of the Pari Passu Obligations. Any payment to the holders of the Pari Passu Obligations hereunder shall be made on a pro rata basis, based on the relative amount of Pari Passu Obligations, and such payment shall be made to the Authorized Representatives, for the benefit of the holders of the Pari Passu Obligations, to be applied by such Authorized Representatives in accordance with the applicable Pari Passu Documents. In any such event, the Pari Passu Collateral Agent may, but shall not be obligated to, demand, claim and collect any such payment or distribution that would, but for these subordination provisions, be payable or deliverable with respect to the Subordinated Intercompany Loans, Notwithstanding anything to the contrary contained above, if one or more of the events referred to in subclauses (i) through (iv) of the first sentence of this clause (b) is in existence, the Pari Passu Collateral Agent may agree in writing that payments may be made with respect to the Subordinated Intercompany Loans which would otherwise be prohibited pursuant to the provisions contained above, provided that any such waiver

shall be specifically limited to the respective payment or payments which the Pari Passu Collateral Agent agrees may be so paid to any Party in respect of the Subordinated Intercompany Loans and such waiver may or may not be given in the Pari Passu Collateral Agent's sole and absolute discretion;

- (c) if such Party shall acquire by indemnification, subrogation or otherwise, any lien, estate, right or other interest in any of the assets or properties of any Grantor, that lien, estate, right or other interest shall be subordinate in right of payment to the Pari Passu Obligations and the lien of the Pari Passu Obligations as provided herein, and such Party hereby waives any and all rights it may acquire by subrogation or otherwise to any lien of the Pari Passu Obligations or any portion thereof until the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations;
- (d) if, at any time, all or part of any payment with respect to Pari Passu Obligations theretofore made (whether by any Grantor or any other Person or enforcement of any right of setoff or otherwise) is rescinded or must otherwise be returned by the holders of Pari Passu Obligations for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of any Grantor or such other Persons), the subordination provisions set forth herein shall continue to be effective or be reinstated, as the case may be, all as though such payment had not been made;
- (e) such Party waives any marshalling rights with respect to the holders of Pari Passu Obligations in any Bankruptcy Proceeding or any other proceeding under the Bankruptcy Code; and
- (f) unless otherwise agreed in writing by the Pari Passu Collateral Agent, upon the sale of or foreclosure on the equity interests of any Grantor to a Person other than the Borrower or another Restricted Subsidiary thereof (whether pursuant to the exercise of foreclosure rights by a Person holding a security interest in such equity interests or otherwise) such Grantor shall be automatically released from its obligations under the Subordinated Intercompany Loans.
- 3. Each Party hereby covenants and agrees that it will not lend, hold or permit to exist any Subordinated Intercompany Loans owed by it or to it (in accordance with the definition thereof contained herein) unless each obligee, or obligor, as the case may be, with respect to such Subordinated Intercompany Loans is (or concurrently with such extension becomes) a Party to this Agreement.
- 4. Any payments (to the extent made by a Grantor) made to, or received by, any Party in respect of any guaranty or security in support of the Subordinated Intercompany Loans shall be subject to the terms of this Agreement and applied on the same basis as payments made directly by the obligor under such Subordinated Intercompany Loans. To the extent that the Borrower or any other Grantor (other than the respective obligor or obligors which are already Parties hereto) provides a guaranty or any security in support of any Subordinated Intercompany Loans, the Party which is the lender of the respective Subordinated Intercompany Loans will cause each such Person to become a Party hereto (if such Person is not already a Party hereto) not later than the date of the execution and delivery of the respective guarantee or

security documentation, <u>provided</u> that any failure to comply with the foregoing requirements of this Section 4 will have no effect whatsoever on the subordination provisions contained herein (which shall apply to all payments received with respect to any guarantee or security for any Subordinated Intercompany Loans, whether or not the Person furnishings such guarantee or security is a Party hereto).

- 5. Each Party agrees to be bound by all of the terms and provisions contained in this Agreement, both with respect to any Subordinated Intercompany Loans (including any guarantees thereof and security therefor) owed to it, and with respect to all Subordinated Intercompany Loans (including all guarantees thereof and security therefor) owing by it.
- 6. It is understood and agreed that any Subsidiary of Borrower may become a Party hereunder upon execution and delivery of a supplement to this Agreement substantially in the form attached hereto as <u>Exhibit A</u>.
- 7. No failure or delay on the part of any Party hereto or any holder of Pari Passu Obligations in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.
- 8. Each Party hereto acknowledges that to the extent that no adequate remedy at law exists for breach of its obligations under this Agreement or in the event any Party fails to comply with its obligations hereunder, the Pari Passu Collateral Agent and the holders of Pari Passu Obligations shall have the right to obtain specific performance of the obligations of such defaulting Party, injunctive relief or such other equitable relief as may be available.
- 9. All notices, requests, demands or other communications pursuant hereto shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile. Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). All notices and other communications shall be in writing and shall be sent (i) in the case of the Pari Passu Collateral Agent or any Authorized Representative of the holders of Pari Passu Obligations, as provided in the Intercreditor Agreement, (ii) in the case of any Party, to such Party at c/o Pacific Drilling S.A., 3050 Post Oak Blvd., Suite 1500, Houston, Texas 77056, Attention: John Boots, Facsimile No. (713) 583-5777; or in any case at such other address as any of the Persons listed above may hereafter notify the others in writing.

Any Party hereto may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; <u>provided</u> that approval of such procedures may be limited to particular notices or communications. Notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); <u>provided</u> that, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

- 10. In the event of any conflict between the provisions of this Agreement and the provisions of any document governing any Subordinated Intercompany Loan, the provisions of this Agreement shall prevail. In the event of any conflict between the provisions of this Agreement and the provisions of the Intercreditor Agreement, the provisions of the Intercreditor Agreement shall prevail.
- 11. No Person other than the Parties hereto, the Pari Passu Collateral Agent and the holders of the Pari Passu Obligations shall have any rights under this Agreement.
- 12. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.
- 13. No amendment, supplement, modification, waiver or termination of this Agreement shall be effective against a party against whom the enforcement of such amendment, supplement, modification, waiver or termination would be asserted, unless such amendment, supplement, modification, waiver or termination was made in a writing signed by such party, <u>provided</u> that amendments hereto shall be effective as against the holders of Pari Passu Obligations if executed and delivered by the Pari Passu Collateral Agent at such time.
- 14. In case any one or more of the provisions contained in this Agreement, or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein, and any other application thereof, shall not in any way be affected or impaired thereby.
- 15. (a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH PARTY HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURT LACKS PERSONAL JURISDICTION OVER SUCH PARTY, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT BROUGHT IN ANY OF THE AFORESAID COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER SUCH PARTY. EACH PARTY FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY

THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11 HEREOF, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH MAILING. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER THAT SUCH SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY HOLDER OF PARI PASSU OBLIGATIONS TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY PARTY IN ANY OTHER JURISDICTION.

- (b) EACH PARTY HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.
- (c) EACH PARTY HEREBY IRREVOCABLY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- 16. This Agreement shall bind and inure to the benefit of the Pari Passu Collateral Agent, the other holders of Pari Passu Obligations and each Party and their respective successors, permitted transferees and assigns.
- 17. Upon the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, this Agreement shall be automatically terminated, discharged and released.

* * *

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

PACIFIC DRILLING	S.A.
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Ву:		
	Name:	
	Title:	
[]
_		
By:		
•	Name:	
	Title:	
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L		,
By:		
,	Name:	
	Title	

[Signature page to Intercompany Subordination Agreement]

EXHIBIT A

[FORM OF]

INTERCOMPANY SUBORDINATION AGREEMENT SUPPLEMENT

This INTERCOMPANY SUBORDINATION AGREEMENT SUPPLEMENT (this "Intercompany Subordination Supplement"), dated as of [], 20[], is made by [], a [] (the "Additional Party").

WITNESSETH:

WHEREAS, Pacific Drilling S.A. (the "Borrower"), the lenders from time to time party thereto, and Citibank, N.A., as administrative agent (in such capacity, the "Revolving Credit Agreement Agent"), have entered into a Credit Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Revolving Credit Agreement"), providing for the making of revolving loans to the Borrower and the issuance of letters of credit for the account of the Borrower or any of its Restricted Subsidiaries (as used in this instance only, as defined in the Revolving Credit Agreement) as contemplated therein;

WHEREAS, the Borrower, the lenders from time to time party thereto, and Citibank, N.A., as administrative agent (in such capacity, the "Term Loan Agreement, have entered into a Term Loan Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Term Loan Agreement"), providing for the making of term loans to the Borrower as contemplated therein;

WHEREAS, the Borrower, its subsidiaries party thereto as guarantors, and Deutsche Bank Trust Company Americas, as trustee (in such capacity, the "<u>Trustee</u>"), have entered into an Indenture, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "<u>Indenture</u>"), pursuant to which the Borrower has issued its 5.375% senior secured notes due 2020;

WHEREAS, the Borrower, certain of the other Parties, Citibank, N.A., in its capacity as Pari Passu Collateral Agent (as defined in the Intercreditor Agreement), the Revolving Credit Agent, the Term Loan Agent, and the Trustee have entered into an Intercreditor Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Intercreditor Agreement");

WHEREAS, pursuant to the terms of certain of the Pari Passu Documents, the Borrower and/or one or more other Grantors may be or may become indebted to any Restricted Subsidiary (as defined in the applicable Pari Passu Document) of the Borrower that is not a Grantor (the Indebtedness of any Grantor in respect of loans, advances or other extensions of credit (including, without limitation, pursuant to guarantees thereof or security thereof) owed to any Restricted Subsidiary of the Borrower that is not a Grantor, the interest thereon and any other amounts payable in respect thereof are hereinafter collectively referred to as "Subordinated Intercompany Loans");

WHEREAS, in connection with the Pari Passu Documents, the Borrower, certain other Grantors and certain Restricted Subsidiaries of the Borrower that do not constitute Grantors have entered into an Intercompany Subordination Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, including as supplemented by this Intercompany Subordination Supplement, the "Intercompany Subordination Agreement"); and

WHEREAS, as required by the terms of certain of the Pari Passu Documents, the Additional Party is required to execute and deliver this Intercompany Subordination Supplement, and the Additional Party has agreed to execute and deliver this Intercompany Subordination Supplement.

NOW, THEREFORE, IT IS AGREED:

SECTION 1. <u>Defined Terms</u>. Capitalized terms used and not defined herein have the meanings ascribed to such terms in the Intercompany Subordination Agreement.

SECTION 2. <u>Subordination</u>. The Additional Party hereby agrees that the Subordinated Intercompany Loans and all payments of principal, interest and other amounts thereunder are, and shall continue to be, subject and subordinate in right of payment to the prior payment in full, in cash, of all Pari Passu Obligations to the extent and in the manner set forth in the Intercompany Subordination Agreement. The foregoing subordination shall apply notwithstanding the availability of any collateral to the holders of Pari Passu Obligations or the holders of Subordinated Intercompany Loans or the actual date and time of execution, delivery, recordation, filing or perfection of any security interests granted with respect to the Pari Passu Obligations or the Subordinated Intercompany Loans, as the case may be, or the lien or priority of payment thereof, and also shall apply in any instance wherein the Pari Passu Obligations or any claim for the Pari Passu Obligations is subordinated, avoided or disallowed, in whole or in part, under the Bankruptcy Code or other applicable federal, foreign, state or local law.

SECTION 3. Obligations Under the Intercompany Subordination Agreement. The undersigned hereby agrees, as of the date first above written, to be bound as a Party by all of the terms and conditions of the Intercompany Subordination Agreement to the same extent as each of the other Parties thereunder. The undersigned further agrees, as of the date first above written, that each reference in the Intercompany Subordination Agreement to a "Party" shall also mean and be a reference to the undersigned.

SECTION 4. <u>Covenants</u>. The undersigned hereby undertakes each covenant obligation set forth in the Intercompany Subordination Agreement to the same extent as each other Party.

SECTION 5. <u>Governing Law.</u> THIS INTERCOMPANY SUBORDINATION SUPPLEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

Very truly yours,
[NAME OF ADDITIONAL PARTY]
By: Name: Title:
Notice Address:

IN WITNESS WHEREOF, the undersigned has caused this Intercompany Subordination Supplement to be executed and delivered by its officer thereunto duly authorized, as of the date first above written.

EXHIBIT L

FORM OF NOTICE OF BORROWING

[Date]

Citibank, N.A., as Administrative Agent for the Lenders party to the Credit Agreement referred to below 1516 Brett Road, Ops III New Castle, DE 19720

Attention: Citigroup Global Loans Facsimile: (212) 994-0961

Email: global.loans.support@citi.com

Ladies and Gentlemen:

The undersigned, Pacific Drilling S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), refers to the Credit Agreement, dated as of June 3, 2013 (as amended, restated, modified and/or supplemented from time to time, the "Credit Agreement", the terms defined therein being used herein as therein defined), among the Borrower, the lenders from time to time party thereto (the "Lenders"), and Citibank, N.A., as Administrative Agent for such Lenders, and hereby gives you notice, irrevocably, pursuant to Section 2.03(a) of the Credit Agreement, that the undersigned hereby requests a Borrowing under the Credit Agreement, and in that connection set forth below is the information relating to such Borrowing (the "Proposed Borrowing") as required by Section 2.03(a) of the Credit Agreement:

- (i) The aggregate principal amount of the Proposed Borrowing is \$.
- (ii) The Business Day of the Proposed Borrowing is .
- (iii) The Type of Loan comprising the Proposed Borrowing is . 2
- (iv) The proceeds of the Proposed Borrowing shall be deposited in the following account: Account No. [], Account Name [].
- (v) [The initial Interest Period for the Proposed Borrowing is [month(s)].] ³

Shall be a Business Day at least three Business Days after the date hereof, <u>provided</u> that any such notice shall be deemed to have been given on a certain day only if given before 11:00 a.m. (New York time) on such day.

² If the Type of Loan is not specified, the Loan shall be made as a Base Rate Loan.

³ Insert if the Proposed Borrowing is a Eurodollar Rate Loan.

The undersigned hereby certifies on behalf of the Borrower that the following statements are true on the date hereof, and will be true on the date of the Proposed Borrowing:

- (A) the representations and warranties made by each Credit Party in or pursuant to the Credit Documents are and will be true and correct in all material respects, on and as of such date of the Proposed Borrowing as if made on and as of the date of the Proposed Borrowing, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty is and will be true and correct in all respects on and as of such date of the Proposed Borrowing (it being understood and agreed that any representation or warranty which by its terms is made as of a specific earlier date shall be true and correct in all material respects as of such earlier date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct, only as of such earlier date);
- (B) no Default or Event of Default has occurred and is continuing on the date of the Proposed Borrowing or would result after giving effect to the Proposed Borrowing made on such date; and
- (C) since December 31, 2012, there has not occurred a Material Adverse Effect or any event or condition that has had, or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

V	ery truly yours,
P	ACIFIC DRILLING S.A.
В	y:
	Name: Title:

FORM OF NOTE

New York, New York

FOR VALUE RECEIVED, PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* (the "Borrower"), hereby promises to pay to or its registered assigns (the "Lender"), in lawful money of the United States of America in immediately available funds, at the office of Citibank, N.A. (the "Administrative Agent"), located at 1516 Brett Road, Ops III, New Castle, DE 19720, on the Maturity Date (as defined in the Credit Agreement referred to below) the principal sum of DOLLARS (\$) or, if less, the unpaid principal amount of all Loans (as defined in the Credit Agreement) made by the Lender pursuant to the Credit Agreement, payable at such times and in such amounts as are specified in the Credit Agreement.

The Borrower also promises to pay interest on the unpaid principal amount of each Loan made by the Lender in like money at said office from the date hereof until paid at the rates and at the times provided in Section 2.07 of the Credit Agreement.

This Note is one of the Notes referred to in the Credit Agreement, dated as of June 3, 2013, among the Borrower, the lenders from time to time party thereto (including the Lender), and the Administrative Agent (as amended, restated, modified and/or supplemented from time to time, the "Credit Agreement") and is entitled to the benefits thereof and of the other Credit Documents (as defined in the Credit Agreement). This Note is secured by the Security Documents (as defined in the Credit Agreement) and is entitled to the benefits of the Subsidiary Guaranty (as defined in the Credit Agreement). This Note is subject to voluntary prepayment and mandatory repayment prior to the Maturity Date, in whole or in part, as provided in the Credit Agreement.

If an Event of Default (as defined in the Credit Agreement) shall occur and be continuing, the principal of and accrued interest on this Note may be declared to be due and payable in the manner and with the effect provided in the Credit Agreement.

The Borrower hereby waives presentment, demand, protest or notice of any kind in connection with this Note.

THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

PACIFIC DRILLING S.A.
Ву:
Name:
Title:

[Signature Page to Note]

EXHIBIT N

FORM OF LETTER OF CREDIT REQUEST

Dated

Citibank, N.A., as Administrative Agent under the Credit Agreement referred to below 1516 Brett Road, Ops III New Castle, DE 19720

Attention: Citigroup Global Loans

Facsimile: (212) 994-0961

Email: global.loans.support@citi.com

[Name and Address of the respective Issuing Lender]

Attention:

Ladies and Gentlemen:

The undersigned, [Pacific Drilling S.A., a Luxembourg corporation under the form of a *société anonyme* (the "<u>Borrower</u>")][Insert Restricted Subsidiary of the Borrower, a (the "<u>Company</u>")], refers to the Credit Agreement, dated as of June 3, 2013 (as amended, modified or supplemented from time to time, the "<u>Credit Agreement</u>"; the capitalized terms defined therein being used herein as therein defined), among [the Borrower][Pacific Drilling S.A.], the lending institutions from time to time party thereto (the "<u>Lenders</u>") and Citibank, N.A., as Administrative Agent.

The undersigned hereby requests that 1 as Issuing Lender, issue a Letter of Credit on 3 , (the "<u>Date of Date of Dat</u>

The beneficiary of the requested Letter of Credit will be 5 and such Letter of Credit will have a stated termination date of 6

¹ Name of Issuing Lender.

Date of Issuance, which shall be at least three Business Days from the date hereof (or such shorter period as may be acceptable to the respective Issuing Lender).

Or the applicable Alternative Currency. For Letters of Credit requested to be denominated in a currency other than Dollars or Naira, this request must be delivered at least 20 Business Days (or such lesser time as may be agreed by the Administrative Agent and the applicable Issuing Lenders) prior to the requested Date of Issuance.

Initial Stated Amount of Letter of Credit, which shall not be less than \$20,000 or such lesser amount as is acceptable to the respective Issuing Lender.

⁵ Insert name and address of beneficiary.

Insert last date upon which drafts may be presented, which may not be later than the earlier of (x) 12 months after the Date of Issuance (although any such standby Letter of Credit shall be extendible for successive periods of up to 12 months) and (y) the seventh Business Day immediately preceding the Maturity Date.

The undersigned hereby certifies that the following statements are true on the date hereof, and will be true on the Date of Issuance:

- (A) the representations and warranties contained in the Credit Agreement and in the other Credit Documents are and will be true and correct in all material respects, both before and after giving effect to the issuance of the Letter of Credit requested hereby, as though made on the Date of Issuance, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty is and will be true and correct in all respects, both before and after giving effect to the issuance of the Letter of Credit requested hereby, as though made on the Date of Issuance (it being understood and agreed that any representation or warranty which by its terms is made as of a specific earlier date shall be true and correct in all material respects as of such earlier date, except for any representation and warranty that is qualified by materiality or reference to Material Adverse Effect, which such representation and warranty shall be true and correct, only as of such earlier date);
- (B) no Default or Event of Default has occurred and is continuing, or would result after giving effect to the issuance of the Letter of Credit requested hereby; and
- (C) since December 31, 2012, there has not occurred a Material Adverse Effect or any event or condition that has had, or would reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

[PACIFIC DRILLING S.A.][RESTRICTED SUBSIDIARY OF THE BORROWER]

By:				
	Name:			
	Title:			

FORM OF COMPLIANCE CERTIFICATE

This Compliance Certificate is delivered to you pursuant to Section 9.01(f) of the Credit Agreement, dated as of June 3, 2013 (as amended, restated, supplemented or modified from time to time, the "Credit Agreement"), among Pacific Drilling S.A. (the "Borrower"), the lenders from time to time party thereto and Citibank, N.A., as Administrative Agent. Terms defined in the Credit Agreement and not otherwise defined herein are used herein as therein defined.

- 1. I am the duly elected, qualified and acting [Insert office of Authorized Representative] of the Borrower.
- 2. I have reviewed and am familiar with the contents of this Compliance Certificate. I am providing this Compliance Certificate solely in my capacity as [Insert office of Authorized Representative] of the Borrower, and on behalf of the Borrower. The matters set forth herein are true to the best of my knowledge after due inquiry.
- 3. I have reviewed the terms of the Credit Agreement and the other Credit Documents and have made or caused to be made under my supervision a review in reasonable detail of the transactions and condition of the Borrower and its Restricted Subsidiaries during the accounting period covered by the financial statements attached hereto as ANNEX 1 (the "Financial Statements"). Such review did not disclose the existence during or at the end of the accounting period covered by the Financial Statements, and I have no knowledge of the existence, as of the date of this Compliance Certificate, of any condition or event which constitutes a Default or an Event of Default[, except as set forth below].
 - 4. Attached hereto as ANNEX 2 are the computations showing (in reasonable detail) compliance with the covenants specified therein.
- 5. Attached hereto as ANNEX 3 is the information required by Section 9.01(f)(ii) of the Credit Agreement as of the date of this Compliance Certificate.

IN WITNESS WHEREOF, I have executed this Compliance Certificate this day of , 20 .

PACIFIC DRILLING S.A.

By

Name: Title:

ANNEX 1

[Financial Statements to be attached]

ANNEX 2

The information described herein is as of $, 20^{-1}$ (the "<u>Computation Date</u>") and, except as otherwise indicated below, pertains to the period from $, 20^{-1}$ to the Computation Date (the "<u>Relevant Period</u>").

	Fina	ancial	Covenants	Period or Date of Determination	A	Amount
•			ximum Leverage Ratio (Section 10.07)			
		1 Consolidated Net Debt 2	As at the Computation Date	\$		
		2.	Consolidated EBITDA ³ for the Test Period ended on the Computation Date	Computation Date	\$	
		3.	Ratio of line 1 to line 2			:1.00
	B.	. Minimum Liquidity (Section 10.08)				
		1.	Unrestricted cash and Cash Equivalents	Amount maintained on Computation Date		
		2.	Total Unutilized Commitment available for Loans		\$	
		3.	Sum of lines 1 and 2		\$	

Insert the last day of the respective fiscal quarter or year covered by the financial statements which are required to be accompanied by this compliance certificate.

I.

Attach hereto in reasonable detail the calculations required to arrive at Consolidated Net Debt.

Attach hereto in reasonable detail the calculations required to arrive at Consolidated EBITDA.

ANNEX 3

1. It is hereby certified that no changes are required to be made to Schedule 8.16 of the Credit Agreement or any equivalent annexes or schedules to any Security Document, in each case so as to make the information set forth therein accurate and complete as of date of this Certificate, except as specially set forth below:

[All actions required to be taken by the Borrower and the other Credit Parties pursuant to the Credit Agreement and the Security Documents as a result of the changes described above have been taken, and the Pari Passu Collateral Agent has, for the benefit of the Secured Creditors, a first priority perfected security interest in all Collateral pursuant to the various Security Documents to the extent required by the terms thereof.] ¹

The bracketed language must be inserted if there have been any changes to the information, as contemplated by Section 9.01(f)(ii) of the Credit Agreement.

EXHIBIT P

FORM OF MANAGEMENT AGREEMENT

[PACIFIC DRILLING ENTITY]

and

[TBD]

VESSEL MANAGEMENT AGREEMENT

DATED AS OF , 201

THIS VESSEL MANAGEMENT AGREEMENT (the "Agreement") dated as of	, 201	is entered by and between
[VESSEL OWNER], a company organized under the laws of [] (the "COMPANY"), and [VI	ESSEL OPE	RATOR] a company organized
under the laws of the [] (" PACIFIC DRILLING ").		

WHEREAS:

- 1. PACIFIC DRILLING is a drilling contractor experienced in the operation of drilling rigs, drillships and other comparable equipment;
- 2. The COMPANY is the registered owner of that certain drillship known as the Official Number [] (the "**Rig**");
- 3. The COMPANY has also entered into ["the Drilling Contract") by and [between/among] the COMPANY, ["Client") pursuant to which it has agreed to provide offshore drilling services to Client using the Rig on the terms set out therein;
- 4. The COMPANY desires to engage PACIFIC DRILLING to operate the Rig under the terms of this Agreement; and
- 5. PACIFIC DRILLING desires to provide such services under the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, the COMPANY and PACIFIC DRILLING hereby agree as follows:

- 1. Definitions. Capitalized terms used herein shall have the meanings given them in Exhibit 1.00 of this Agreement.
- 2. Appointment of Operator. The COMPANY hereby appoints PACIFIC DRILLING as operator of the Rig with effect from the commencement of this Agreement under Section 9.01 according to the conditions and during the term hereof. As operator PACIFIC DRILLING shall, subject to the terms of this Agreement, provide the services set out in Section 3 hereof, all such services hereafter being sometimes referred to as the "Work", which expression shall also include action taken pursuant to Section 4.04 (Emergency Action). For as long as this Agreement remains in full force and effect, PACIFIC DRILLING shall not resign from its appointment as operator hereunder.
- 3. Services of PACIFIC DRILLING. Subject always to the provisions of Section 3.05 and 4, PACIFIC DRILLING shall as operator of the Rig, during the term of this Agreement, without prejudice to their generality, provide day-to-day management supervision and operating, maintenance, administrative and related services with respect to the Rig (including all such services as are required to be provided by the Company to the Client in accordance with the Drilling Contract), including but not limited to accounting, engineering, planning, budgeting, treasury, technical, tax assistance, industrial relations, public affairs, regulatory services and the services specified below, such services to be provided from such locations as may from time to time in the opinion of PACIFIC

DRILLING be necessary or appropriate. PACIFIC DRILLING may provide all or any of such services directly or through an Affiliate or Affiliates; provided, however, that (a) PACIFIC DRILLING shall remain fully liable and responsible for its duties and obligations under this Agreement [and (b) to the extent that any services to be provided under this Agreement are required to be performed in Nigeria (or in respect of any vessel while temporarily outside of Nigeria, for the purpose of required repairs or inspections and complying with any applicable legal requirements), then such services ("the Nigerian Services") shall be performed by Pacific International Drilling West Africa Limited, a company organized and existing under the laws of Nigeria ("PIDWAL"). PIDWAL shall receive compensation for the Nigerian Services (i) directly from Star pursuant to the Drilling Contract or (ii) from the COMPANY to the extent that the Naira amounts received from Star are not sufficient to fund the costs incurred by PIDWAL in the performance of such services. PACIFIC DRILLING and/or its other Affiliates shall only perform services under this Agreement outside of Nigeria.]

- 3.01 Operating and Technical Services. PACIFIC DRILLING agrees to implement and administer all contracts related to the operation and maintenance of the Rig and to provide support for the operation of the Rig (including the Drilling Contract) in the performance of drilling or other use contracts, arrange for the Stacking during periods when the Rig is not under contract and for any necessary mobilization of the Rig, provide technical services for any drydocking, conversion, modification, maintenance, repairs, classification and compliance with the relevant Governmental Requirements applicable to the Rig, including preparation and filing of any documents required in connection therewith and responding to and maintaining contracts with Governmental Authorities on behalf of the COMPANY, and provide administrative services with respect to each of the foregoing functions. The foregoing functions and services shall include the following:
 - (a) Manning Requirements. PACIFIC DRILLING shall make all arrangements for the selection, appointment, dismissal, welfare, training, employment, administration and remuneration of the crew and shore-based, marine and technical as well as local base support staff of the Rig. The remuneration and conditions of service of the crew and shore-based staff and the number of relevantly qualified personnel, including availability of personnel to cover vacancies due to leave requirements, sickness, injury or replacement of personnel, shall be established in accordance with the usual practices of PACIFIC DRILLING and all applicable Governmental Requirements. The number and qualifications of the crew and shore-based staff shall be consistent with applicable Governmental Requirements and the drilling or other utilization contracts to which the Rig may from time to time be committed in accordance with good operating practices and operations. PACIFIC DRILLING shall have sole responsibility for the preparation of payroll and the payment of personnel provided under the terms of this Agreement, wages, compensation, remittance, allowance, insurance and indemnities of whatever kind and in complying with all applicable labor Governmental

Requirements, as well for the procurement of visas, work permit applications and compliance with local Governmental Requirements in connection with the staff of the Rig. PACIFIC DRILLING or its Affiliates shall remain the employer of any personnel provided under this Agreement, however, the COMPANY shall maintain direction and control over the personnel. For the avoidance of doubt, the COMPANY's direction and control of personnel shall not limit PACIFIC DRILLING's obligations under this Agreement or PACIFIC DRILLING's liability for any action or inaction of any such personnel.

- (b) Provisions and Supplies. PACIFIC DRILLING shall arrange for, in the name, if possible, of the COMPANY the purchasing or hiring of all equipment, replacements, spare parts, stores, consumables, provisions, fuel and lubricants required in connection with the operation or Stacking of the Rig, as well as liaison with suppliers, so as to enable PACIFIC DRILLING to fulfill its obligations hereunder. PACIFIC DRILLING will use its commercially reasonable efforts to ensure that materials and equipment procured by it are purchased on terms as to price and payment, and having regard to the quality and availability of the materials concerned, as are customary under PACIFIC DRILLING's normal practice. Such services shall include the sale or exchange, in the name of the COMPANY, of such materials, equipment and supplies, custody, control and management of any such materials, equipment and supplies loaned to the COMPANY pursuant to a loan agreement lease, purchase option agreement or otherwise.
- (c) <u>Maintenance and Repairs</u>. PACIFIC DRILLING shall arrange for, in the name, if possible, of the COMPANY, the Rig to be maintained, repaired and kept in an orderly and good operating condition in accordance with PACIFIC DRILLING's normal management and operating practices for the conduct of its own business of similar kind and in accordance with all applicable requirements of the Drilling Contract. PACIFIC DRILLING shall establish and comply with a planned maintenance system and any operating and maintenance plans required by applicable Governmental Authorities.
- (d) <u>Classifications and Approvals</u>. PACIFIC DRILLING shall keep the Rig in class and obtain and maintain all certificates and approvals required so that the Rig is kept duly seaworthy and as required by the relevant Governmental Authorities in the country of the flag of the Rig and other countries where the Rig may be in operation. Excepted from the foregoing shall be any certificates and approvals which are not normally obtainable or obtained until the Rig has entered the applicable country and/or has obtained a drilling contract. Furthermore, PACIFIC DRILLING shall follow changes of relevant Governmental Requirements and class requirements and/or changes in the applications of same and make necessary modifications and upgrades of the Rig to fulfill such

changes and/or changes in application. The foregoing responsibilities shall include all required regulatory inspections and drydockings as well as the establishing and maintaining of quality assurance, quality control, safety and other manuals required by any relevant Governmental Authority and all of which shall be accomplished so as to ensure compliance with the Drilling Contract. If PACIFIC DRILLING encounters any material difficulties which would, or if the necessary modifications or upgrades would, be reasonably likely to lead to material expenses not budgeted, PACIFIC DRILLING shall inform the COMPANY, and after consultation with the applicable certifying authorities, consult with the COMPANY to decide whether such modifications shall be carried through or not. The Company and PACIFIC DRILLING specifically agree that no consultation is necessary in the event such modifications are required for maintaining drilling operations or are critical to maintain safety of the operations.

- (e) <u>Technical Services</u>. PACIFIC DRILLING shall provide the engineering and technical services required in connection with the operation, maintenance, repair and Stacking of the Rig. If the COMPANY desires to have modification or conversion work done on the Rig, PACIFIC DRILLING shall do the necessary engineering and technical work required to perform the modification or conversion. In addition, PACIFIC DRILLING shall make technical personnel available to supervise the modification or conversion work being done at the shipyard or by other third party contractors performing the work.
- (f) Shore-based Facilities . PACIFIC DRILLING shall make available all shore-based support facilities outside of Nigeria necessary to perform the contract to which the Rig may be committed from time to time or to support the Rig while Stacked. Such facilities shall include office space for utilization of shore based management personnel and their support staff and any required yard and warehouse facilities.
- (g) <u>Home Office Support</u>. PACIFIC DRILLING shall make available staff and support services in connection with the Work. The services to be performed by such home office staff shall include but not be limited to management services, personnel services, legal, financial, technical and operational reporting services, audit and compliance support, environmental and safety support, placement of insurance, engineering and technical support, logistics and purchasing of supplies, spare parts and equipment for the Rig.
- (h) <u>Third Party Services</u>. PACIFIC DRILLING may, whenever it is necessary or advisable, engage on behalf of the COMPANY the services of third party subcontractors, suppliers and professional advisors for the performance of specific assignments. In relation to home office support services, PACIFIC DRILLING may engage the services of professional

advisors and other third parties to obtain expertise which PACIFIC DRILLING or its Affiliates do not possess and which in connection with its own similar business, PACIFIC DRILLING would in the ordinary course engage the services of such third parties. In case of any use of third party subcontractors, suppliers or professional advisors, PACIFIC DRILLING shall remain fully liable and responsible towards the COMPANY for the performance of such subcontractor, supplier or advisor, but only to such extent as PACIFIC DRILLING is responsible generally to the COMPANY under this Agreement, unless agreed otherwise in writing.

- (i) <u>Technical and Operational Reporting</u>. PACIFIC DRILLING shall report to the COMPANY monthly (more often when special circumstances with the Rig occur) about technical and operational matters having occurred during the past month, including incidents which give or could give rise to claims by or against third parties, including damage to the Rig. The reporting shall follow normal PACIFIC DRILLING standards and shall be consistent with all applicable standards or requirements in the Drilling Contract.
- (j) <u>Local Services</u>. PACIFIC DRILLING shall, subject always to the second Proviso to Section 3 above, procure services in countries where the Rig operates or is Stacked, as applicable, such local services including but not limited to the provision of (i) logistics, (ii) local rig personnel, (iii) local base personnel, (iv) local base and yard service and services required for such spaces, (v) commercial services, (vi) offices, (vii) customs clearance for rig, equipment and spare parts, (viii) accounting and cost control, (ix) local insurance and settling of local insurance disputes, (x) assistance with administration of local contracts and local Governmental Authorities, (xi) local freight forwarding, (xii) local purchase of parts, services and supplies, (xiii) administration of invoicing for contracts for the Rig, (xiv) consularization and assistance to comply with local Governmental Requirements, and (xv) legal assistance concerning Rig and base operational health, safety and environmental issues.

When special circumstances occur or upon the COMPANY's request, the COMPANY shall have the right to receive a copy of the daily report originated at the Rig.

3.02 Insurance.

(a) <u>Insurance Coverage</u>. During the term of this Agreement, the COMPANY shall cause to be provided insurance coverages by reputable insurance carriers in accordance with the usual practices of PACIFIC DRILLING. With the consent of PACIFIC DRILLING, with respect to this section 3.02(a), COMPANY shall have the right to self-insure or insure through a licensed affiliated insurance company. The COMPANY will promptly

- supply to PACIFIC DRILLING copies of the related insurance certificates, and shall keep PACIFIC DRILLING advised of any material changes in the terms and conditions of any such insurances. For the avoidance of doubt, a material change in the terms and conditions is a change that would render the insurance program non-compliant with this Section 3.02(a).
- (b) <u>Miscellaneous Provisions</u>. The COMPANY shall not change the limits of a policy without notifying PACIFIC DRILLING and shall keep PACIFIC DRILLING advised of any material changes in the terms and conditions of any insurance cover provided by the COMPANY. All insurances procured pursuant to Section 3.02(a) shall be primary insurance as to all parties named as an assured or additional insured, to the extent of the indemnities assumed under this Agreement, and shall, where applicable have limits adequate for the trade intended; all policies shall contain an "in rem" endorsement.
 - All of the costs of any insurances procured by PACIFIC DRILLING shall be reimbursed by the COMPANY in accordance with Section 5.02 hereof.
- (c) <u>Defense of Claims</u>. PACIFIC DRILLING shall inform the COMPANY of all claims and shall be responsible for the preparation and submission of the same to the appropriate underwriters. The COMPANY shall, with PACIFIC DRILLING's assistance, conduct the defense of all claims under policies taken out by the COMPANY or under policies taken out by PACIFIC DRILLING, if any, on behalf of the COMPANY which relate only to the Rig or the Work and PACIFIC DRILLING shall give to the COMPANY all such assistance with respect to such claims as the COMPANY shall reasonably request. PACIFIC DRILLING shall handle, in consultation with the COMPANY when and as appropriate, all claims under the coverage provided by PACIFIC DRILLING's employee insurance coverage or by other policies of PACIFIC DRILLING which also extend to the activities or business of PACIFIC DRILLING outside this Agreement. The COMPANY shall give to PACIFIC DRILLING all such assistance with respect to such claims as PACIFIC DRILLING shall reasonably request.
- (d) PACIFIC DRILLING Employee Insurances. PACIFIC DRILLING will maintain the employee insurances listed in Exhibit 2.00 of this Agreement covering all employees of PACIFIC DRILLING from time to time engaged in the provision of services to the COMPANY under this Agreement and shall maintain such insurance coverage during the term of the Agreement. PACIFIC DRILLING shall supply a certificate of insurance showing compliance with Exhibit 2.00 during the duration of this Agreement.

- 3.03 Accounting and Other Financial Reporting Services . PACIFIC DRILLING shall perform the following services:
 - (a) Establish and keep proper and adequate books and accounts reflecting the business and operations of the Rig, making such books and accounts available for inspection and audit by or on behalf of the COMPANY at such time as the COMPANY may reasonably require on advance written notice.
 - (b) Not later than thirty (30) days after the end of each calendar month, report to the COMPANY such information and data relating to the results of operations for the preceding month and year to date as shall reasonably be requested.
 - (c) Supply to the COMPANY such information and documentation as may be reasonably required for the COMPANY to comply with any accounting requirements applicable to the COMPANY and for the COMPANY to prepare its corporate tax returns on a timely basis; provided, however, that the COMPANY shall give PACIFIC DRILLING reasonably adequate advance notice of the types and general format of any such information and documentation.
 - (d) As soon as possible submit to the COMPANY a month-by-month operating and capital expenditures budget in reasonable detail for the services to be performed hereunder.
 - (e) From time to time at the request of the COMPANY or as proposed by PACIFIC DRILLING, submit to the COMPANY budgets or forecasts relating to specific projects with respect to the Rig.
 - (f) Make accounting and other administrative personnel available at reasonable times at the places at which they normally work to answer questions and supply additional information which may be reasonably requested by the COMPANY.
 - (g) Prepare and render billings to clients and other parties in connection with the operation of the Rig. The COMPANY undertakes to notify PACIFIC DRILLING promptly of receipts related to PACIFIC DRILLING's clients and other third party billings, and of billings uncollected as at the due date for payment. If billings are uncollected at the due date for payment, PACIFIC DRILLING shall be responsible for making the respective debtor aware of its failure of payment and use its commercially reasonable efforts to collect the amounts owed as soon as possible. If substantial amounts owed are still uncollected, but not disputed, one (1) month after due date for payment, PACIFIC DRILLING and the COMPANY shall consult to decide which further steps shall be taken.

- (h) Maintain, with the COMPANY's assistance where necessary, legally required local accounting records and make necessary tax filings in countries where the Rig operates.
- (i) All books of account, budgets, financial statements, reports, documentation and other information provided for in this Section 3.03 shall be kept in accordance with PACIFIC DRILLING's normal accounting policies and in accordance with generally accepted accounting principles in the United States of America ("US GAAP") and shall be kept, prepared and presented in the English language and denominated in United States dollars and shall be kept, prepared and presented in the English language and denominated in United States dollars, except for the records provided in subsection (h) above which may be kept in accordance with the accounting principles of, and the language of and denominated in the currency of, the country to which such records pertain.
- 3.04 Other Services and Compliance with Laws and Regulations.

In addition to the services specified above in this Section 3, PACIFIC DRILLING shall protect and promote the interests of the COMPANY in all matters relating to the Rig and the services to be performed whether specifically mentioned in Sections 3.01 to 3.03 or not, and to take any action reasonably required in order to carry out and perform such services. PACIFIC DRILLING shall comply with all applicable Governmental Requirements in the performance of its obligations pursuant to this Agreement.

- 3.05 PACIFIC DRILLING acknowledges that the COMPANY has provided to it copies of the Drilling Contract. Accordingly PACIFIC DRILLING undertakes:
 - (i) to perform all of its obligations hereunder so as to comply with the corresponding obligations of the COMPANY under the Drilling Contract; and
 - (ii) to perform all of its obligations under this Agreement so that no breach, non-performance or non-observance by it hereunder shall cause the COMPANY to breach any of its obligations under, or incur any liability under, the Drilling Contract.

The foregoing provisions shall prevail over any inconsistent provisions in this Agreement.

4. <u>Authority of PACIFIC DRILLING</u>.

4.01 <u>Authority in General</u>. Throughout the duration of this Agreement, it is understood that PACIFIC DRILLING shall act as representative of the COMPANY and have authority to perform the Work in accordance with the provisions of this Agreement.

- 4.02 <u>Relationship between the COMPANY and PACIFIC DRILLING</u>. Subject to the foregoing limits on its authority, PACIFIC DRILLING shall for all purposes be deemed an independent contractor under this Agreement.
- 4.03 <u>Emergency Action</u>. Notwithstanding anything else to the contrary, PACIFIC DRILLING shall have the right and obligation at any time to take such action as is reasonably necessary to avert or reduce danger to life or health of any person or loss of or damage to the Rig or to other property of the COMPANY or PACIFIC DRILLING. Any action taken pursuant to this Section and the expenditures incurred by PACIFIC DRILLING in connection therewith shall be promptly reported to and reimbursed by the COMPANY.
- 4.04 <u>Necessaries</u>. The COMPANY acknowledges and agrees that this Agreement is necessary for the normal operation and for the profitability of the Rig.

5. Reimbursement of Costs; Invoicing.

5.01 Reimbursement of Costs.

Subject to Section 5.02(b), the COMPANY shall fully and totally reimburse PACIFIC DRILLING all reasonable and documented costs and expenses incurred by PACIFIC DRILLING in connection with the Work (which costs and expenses may include mark up by another company in the same group as PACIFIC DRILLING, but only to the extent such mark up is charged on an arm's length basis, is required in order to comply with applicable transfer pricing regulations or other regulations of the relevant jurisdiction and is no greater than the minimum amount required by such regulations); provided, however, that no such costs or expenses shall be incurred during any periods for which the Rig is on a bareboat charter from the COMPANY. Such costs and expenses shall be invoiced by PACIFIC DRILLING in accordance with subsection 5.02 below.

5.02 Reimbursement; Invoicing Principles.

(a) When PACIFIC DRILLING is seeking reimbursement for employee payroll and related costs, the costs to be invoiced by PACIFIC DRILLING shall include not only direct employment costs but also payroll burden including provision for indirect employment costs such as but not limited to earned vacations, insurance costs, contributions to retirement plans, social security assessments, stock compensation, costs of retention plans and termination benefits. Reimbursement billings shall be based upon the direct and indirect payroll burden reflected in PACIFIC DRILLING's normal payroll accounting systems, it being understood that payroll burden for employees performing Work shall be consistent with payroll burden for similarly situated employees of PACIFIC DRILLING or its Affiliates performing similar services for PACIFIC DRILLING or such Affiliate. Anything else to the contrary notwithstanding, invoices for reimbursement to PACIFIC DRILLING of payroll and related burden

- described above may be rendered by PACIFIC DRILLING as such expenses are incurred by PACIFIC DRILLING for such payroll costs. In addition to the above, PACIFIC DRILLING shall render separate billings to the COMPANY for any foreign payroll, social security or income taxes incurred on behalf of employees.
- (b) When PACIFIC DRILLING is seeking reimbursement for the provision of local base offices and other facilities, the costs to be invoiced by PACIFIC DRILLING shall include all costs of maintaining and operating local base offices as well as any area or regional office, divisional office or onshore support facility established to support the Rig including but not limited to personnel and related costs. If at any time any local base office, any area or regional office or warehouse facility supports the operation by PACIFIC DRILLING of other vessels in addition to the Rig, the costs thereof shall be allocated by dividing the total costs incurred in local shore based support of the Rig by the total off-shore costs incurred by all the operating and stacked vessels being supported by such local shore-based office, any area or regional office or onshore support facility during the time in question and multiplying such cost by the total cost to operate the Rig. In the event the Rig is mothballed or cold stacked, as those terms are generally used in the offshore drilling industry, then PACIFIC DRILLING and the COMPANY shall consult with the aim of determining if it is appropriate to reduce the allocation of the cost of local shore-based office, any area or regional office or warehouse facility to the Rig to a lower amount as a result of the Rig being in a mothballed or cold stacked status.
- (c) When PACIFIC DRILLING is seeking reimbursement for the costs of supplies, services or equipment or otherwise under this Agreement, the costs to be invoiced by PACIFIC DRILLING shall include transportation charges, import duties, third party handling charges and any other charges similar to the foregoing, but shall be reduced by any related manufacturer's or other rebates, discounts, commissions, fees or similar benefits and shall not include any mark-up by PACIFIC DRILLING.
- (d) When PACIFIC DRILLING is seeking reimbursement for the costs of provision of insurance, including all insurance coverage normally carried by PACIFIC DRILLING to cover its employees assigned to locations outside the principal office and to cover its liabilities under this Agreement, the costs to be invoiced by PACIFIC DRILLING shall include all premiums, deductibles and self-insured retention costs. Such premiums shall be invoiced on an actual cost basis net of rebates or discounts. Premiums, deductibles and accruals for self insured retentions for insurance taken out by PACIFIC DRILLING under its normal insurance arrangements and which provides PACIFIC DRILLING with cover which is applicable or relevant to the Work or any part of PACIFIC DRILLING's performance of the Work hereunder or any matter incidental thereto, shall be invoiced on an allocated basis, but excluding premiums

- for insurances of principal office employees while located at the principal office. Insurance premium costs will be invoiced within sixty (60) days of policy inception and additional endorsement premiums when effective. Insurance deductible costs shall be invoiced on an actual cost basis, net of rebates or discounts, when actually incurred, regardless of whether incurred during or after the term of this Agreement.
- (e) All invoices for reimbursement pursuant to this Section 5.02 shall be reviewed by the appropriate PACIFIC DRILLING manager in charge of this operation for PACIFIC DRILLING and by the Account Manager of the COMPANY and if the said invoice is approved by the said PACIFIC DRILLING manager and Account Manager for payment then said invoice shall be paid promptly by or on behalf of the COMPANY. PACIFIC DRILLING will provide the Account Manager with any back-up documentation reasonably requested thereby.
- 6. Bank Accounts and Distributions.

<u>6.01 Establishment of Accounts</u>. The COMPANY will establish or has established U.S. dollar bank accounts in the name of the COMPANY prior to or immediately upon execution of this Agreement (collectively, the "Accounts"). Each such Account will be established for the purposes of collecting all receipts from the customers and paying all expenses and invoices required to be paid by the COMPANY under this Agreement.

- 7. Funding
 - 7.01 Funding Provisions. The COMPANY shall fund the Accounts as provided herein.
- 8. <u>Liabilities and Indemnities</u>.
 - 8.01 <u>Limitation of Liability</u>. PACIFIC DRILLING, the COMPANY, and the Rig, their managers and agents and any Affiliates of PACIFIC DRILLING, or the COMPANY shall have the benefit of all exemptions from and limitations of liability to which a vessel, owner, operator, manager or agent is entitled under the laws of any relevant jurisdiction with respect to liability to a third party; provided that no limitation of liability pursuant to this Section 8.01 shall apply to liabilities or obligations of the COMPANY to, or amounts owed by the COMPANY to, PACIFIC DRILLING or liabilities or obligations of PACIFIC DRILLING to, or amounts owed by PACIFIC DRILLING to, the COMPANY under the terms of this Agreement or as otherwise expressly provided by this Agreement. It is furthermore agreed that this Agreement is not and shall not be considered a "personal contract" of a type to which any such exemptions from or limitations of liability would not apply.

8.02 Liability and Indemnity.

- The COMPANY shall indemnify, defend and hold harmless PACIFIC DRILLING, its Affiliates, and their respective officers, directors, partners, members, employees, agents, representatives, successors and assigns (each a "PACIFIC DRILLING Indemnified Person") from and against all claims, losses, liabilities, damages, fines, penalties, costs, expenses (including reasonable attorneys' fees and expenses), suits and causes of action incurred or suffered by a PACIFIC DRILLING Indemnified Person (the foregoing collectively, "Claims"), arising out of (i) this Agreement or the performance by PACIFIC DRILLING of its duties and obligations hereunder, or (ii) any breach by the COMPANY of any of its obligations hereunder, EVEN IF ANY SUCH CLAIM IS CAUSED BY THE NEGLIGENCE OF PACIFIC DRILLING, unless such Claim is finally judicially determined to result from the gross negligence or willful misconduct of PACIFIC DRILLING. The COMPANY's obligations under this section shall survive the termination of this Agreement for any reason.
- (b) The amount of any damages to a PACIFIC DRILLING Indemnified Person shall be reduced by any amount actually received by such Person with respect to such damages under any insurance coverage or from any other party alleged to be responsible for such damages (each such party, a "Responsible Party"); provided, however, that the amount of any such reduction for insurance proceeds shall be offset by the present value of any increase in insurance premiums attributable to any claim for insurance related to such damages. The PACIFIC DRILLING Indemnified Persons shall use commercially reasonable efforts to collect any amounts available under such insurance coverage and from any Responsible Parties. If a PACIFIC DRILLING Indemnified Person receives an amount under insurance coverage or from a Responsible Party with respect to such damages at any time subsequent to any indemnification provided by the COMPANY, then such PACIFIC DRILLING Indemnified Person shall promptly reimburse the COMPANY (but in no event more than ten (10) Business Days after receipt of such amount) for amounts paid by the COMPANY as indemnification up to such amount received by the PACIFIC DRILLING Indemnified Party.
- (c) The obligations of the COMPANY to indemnify the PACIFIC DRILLING Indemnified Persons under Section 8.02(a) of this Agreement with respect to Claims resulting from the assertion of liability by third parties (each, as the case may be, a "Third Party Claim"), will be subject to the following terms and conditions:

Any party against whom any Third Party Claim is asserted will give the COMPANY written notice of any such Third Party Claim promptly after learning of such Third Party Claim, and the COMPANY may, at its option, undertake the defense of such Third Party Claim by representatives of its own choosing. Failure to give prompt notice of a Third Party Claim

under this Agreement shall not affect the COMPANY's obligations under this Section 8.02. If the COMPANY, within thirty (30) days after notice of any such Third Party Claim, or such shorter period as is reasonably required, fails to assume the defense of such Third Party Claim, the PACIFIC DRILLING Indemnified Person against whom such Third Party Claim has been made will (upon further notice to the COMPANY) have the right to undertake the defense, compromise or settlement of such Third Party Claim on behalf of and for the account and risk, and at the expense, of the COMPANY, subject to the right of the COMPANY to assume the defense of such Third Party Claim at any time prior to settlement, compromise or final determination of such Third Party Claim. If the COMPANY assumes such defense, the PACIFIC DRILLING Indemnified Person shall have the right to participate in the defense thereof and to employ counsel, at its own expense (which expense shall not constitute damages subject to the COMPANY's indemnity obligation unless the PACIFIC DRILLING Indemnified Person reasonably determines that the COMPANY is not adequately representing or, because of a conflict of interest, may not adequately represent, any interests of the PACIFIC DRILLING Indemnified Person and only to the extent that such expenses are reasonable), separate from the counsel employed by the PACIFIC DRILLING Indemnified Person, it being understood, however, that the COMPANY shall control such defense. The COMPANY shall be liable for the fees and expenses of counsel employed by the PACIFIC DRILLING Indemnified Person for any period during which the COMPANY has not assumed the defense thereof.

- 8.03 <u>Special Damage</u>. In no event shall any party be liable under this Agreement for any losses resulting from loss of production, loss of use, loss of revenue, profit or anticipated profit, delay and business interruption and other similar losses whether direct or indirect and any indirect or consequential losses whatsoever.
- 9. Commencement, Term and Termination.
 - 9.01 <u>Commencement</u>. The term of this Agreement shall commence immediately as of 12:01 a.m., Houston time, on the date hereof.
 - 9.02 <u>Term</u>. Unless terminated sooner as described in Section 9.03 or 9.04, this Agreement shall remain in full force and effect in perpetuity.
 - 9.03 <u>Early Termination by the COMPANY</u>. This Agreement may be terminated by the COMPANY if:
 - (a) PACIFIC DRILLING commits any breach of its material obligations under this Agreement, the COMPANY shall give PACIFIC DRILLING written notice specifying in reasonable detail the breach relied upon and requiring PACIFIC DRILLING to take steps promptly to remedy the breach. If PACIFIC DRILLING does not:
 - (i) take such steps promptly; or

(ii) remedy the breach within sixty (60) days (or commence to remedy in the event such breach is not capable of being remedied within sixty (60) days from the date the notice was issued and thereafter remedy such breach within 180 days from the date the notice was issued),

then the COMPANY may without prejudice to any other rights or claims for damages or otherwise arising as a result of PACIFIC DRILLING's breach, but always subject to the other provisions of this Agreement, in either case terminate this Agreement forthwith by thirty (30) days prior written notice to PACIFIC DRILLING; or

- (b) the Rig is an actual or is declared a constructive total loss;
- (c) an event occurs which results in the Bankruptcy of PACIFIC DRILLING;
- (d) the Drilling Contract is terminated; or
- (e) the Rig is sold by the COMPANY.

The COMPANY shall give PACIFIC DRILLING at least thirty (30) days prior written notice of any termination under paragraph (b), (c), (d) or (e) of this Section 9.03.

Within thirty (30) days of such termination, PACIFIC DRILLING shall be obliged to properly account for all amounts received and disbursed pursuant to this Agreement as well as provide copies to the COMPANY upon such termination of all files, records, charts, diagrams, proposals, bids, books and other documentation maintained pursuant to PACIFIC DRILLING's records management program from the prior two (2) years, whether in paper or electronic form, relating to the Rig.

- 9.04 <u>Early Termination by PACIFIC DRILLING</u>. This Agreement may be terminated by PACIFIC DRILLING if:
 - (a) The COMPANY fails to pay amounts due to PACIFIC DRILLING when due and the COMPANY fails to correct such deficiency within thirty (30) days of notice by PACIFIC DRILLING to the COMPANY that PACIFIC DRILLING intends to terminate this Agreement for such reason, except for any failure to pay amounts validly disputed pursuant to the terms of this Agreement, in which case the failure to pay the disputed portion of any amounts due shall not be deemed a breach of the COMPANY's obligations under this Agreement or a cause for termination under the terms of this paragraph;

- (b) The COMPANY commits any breach of its material obligations under this Agreement, PACIFIC DRILLING shall give the COMPANY written notice specifying in reasonable detail the breach relied upon and requiring the COMPANY to take steps promptly to remedy the breach. If the COMPANY does not:
 - (i) take such steps promptly, or
 - (ii) remedy the breach within sixty (60) days (or commence to remedy in the event such breach is not capable of being remedied within sixty (60) days from the date the notice was issued and thereafter remedy such breach within 180 days from the date the notice was issued),

then PACIFIC DRILLING may in either case subject always to the other provisions of this Agreement, terminate this Agreement forthwith by thirty (30) days written notice to the COMPANY; or

(c) An event occurs which results in the Bankruptcy of the COMPANY.

PACIFIC DRILLING shall give the COMPANY at least thirty (30) days prior written notice of any termination under paragraph (c) of this Section 9.04.

Within thirty (30) days of such termination, PACIFIC DRILLING shall be obliged to properly account for all amounts received and disbursed pursuant to this Agreement as well as provide copies to the COMPANY upon such termination of all files, records, charts, diagrams, proposals, bids, books and other documentation maintained pursuant to PACIFIC DRILLING's records management program from the prior two (2) years, whether in paper or electronic form, relating to the Rig.

9.05 <u>Survival of Rights</u>. Notwithstanding the termination of this Agreement, any rights, obligations, payments, debts or dues accruing under the terms of this Agreement, shall still be discharged in accordance with the terms of this Agreement. The termination of this Agreement will not relieve any party from liability or responsibility for any breach of this Agreement occurring prior to the termination hereof (or at any time thereafter in respect of the terms hereof which survive termination).

10. Force Majeure.

10.01 <u>Effect and Definition</u>. No failure or omission by either party to perform or carry out its obligations in accordance with this Agreement shall give rise to any claim by the other party or be deemed a breach of this Agreement if such failure or omission arises from an event of force majeure.

For the purpose of this section, force majeure shall include acts of God, acts of public enemies, wars (declared or undeclared), national emergencies,

insurrections, riots, labor disputes (unless excluded as a force majeure cause under the terms of any then current drilling or other contract pursuant to which the Rig was contracted), boycotts, extraordinary weather conditions or governmental interference, or any other event which could not have been reasonably foreseen at the signing of this Agreement, and was beyond the control of the party affected, and makes fulfillment of obligations in accordance with this Agreement impossible.

Financial distress or inability to make payment (except where such inability is caused by force majeure as per this Section) shall not, however, be considered to be force majeure events.

- 10.02 <u>Notification Requirements</u>. The party claiming to be affected by a force majeure event shall (i) promptly notify the other party of the beginning and end of any event claimed to be force majeure; and (ii) take all reasonable steps and precautions to alleviate the effects thereof; and (iii) resume performance in accordance with this Agreement as soon as is reasonably possible.
- 11. <u>Conflicts of Interest</u>. PACIFIC DRILLING shall (i) determine, in its sole and exclusive discretion, the manner in which it shall perform the Work and (ii) be entitled to operate any other drilling rigs, drillships or other comparable equipment owned by PACIFIC DRILLING and its Affiliates.
- 12. <u>Governing Law</u>. This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by, and shall be construed and interpreted in accordance with the of [].
- 13. Notices. All notices, consents, directions, approvals, instructions, requests, demands and other communications (each, a "Notice") required or permitted by the terms hereof to be given to any Person shall be given in writing and may be delivered personally or sent by a reputable overnight air courier, first class post pre-paid recorded delivery (and air mail if overseas) or by fax or e-mail (in the case of fax or e-mail, with confirmation of receipt) to the party due to receive the Notice to the address set forth below or to such other address, person, fax number or e-mail address specified by that party by not less than seven (7) days' written notice to the other party received before the Notice was dispatched:

If to the COMPANY:				
[]			
If to PACIFIC DRILLING:				
[]			

A Notice is deemed given: (i) if delivered personally, when left at, and the person delivering the Notice obtains the signature of a person at, the address referred to above; (ii) if sent by post or air courier, except overseas air mail, two (2) Business Days after posting it; (iii) if sent by overseas air mail, six (6) Business Days after posting it; and (iv) if sent by fax or e-mail, when confirmation of its receipt has been received by the sender. Any Notice sent other than by e-mail shall be accompanied by an e-mail (to the e-mail address for the Person to whom such Notice is sent) stating that a Notice has been sent pursuant to this Agreement and specifying the manner in which such Notice was sent.

14. Dispute Resolution.

- 14.01 Initial Dispute Procedures. Any dispute, between the COMPANY and PACIFIC DRILLING arising out of or in connection with, this Agreement (including any dispute related to non-contractual obligations arising out of or in connection with this Agreement) or the Work shall be resolved by means of the following procedures:
 - The dispute shall initially be referred to the COMPANY representative and the PACIFIC DRILLING representative as the designees to conduct dispute resolution, one nominated by the COMPANY and one nominated by PACIFIC DRILLING. These designated individuals shall discuss the matter in dispute and make all reasonable efforts to reach an agreement. Either party may replace its representative by giving notice to the other party.
 - If no agreement is reached within ten (10) days, the dispute shall be referred to the appropriate officers of the COMPANY and PACIFIC DRILLING for additional discussions for a further ten (10) days. In any event, the discussions between the parties shall not prohibit a party from initiating a request for arbitration.
- 14.02 <u>Arbitration</u>. All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement shall be decided by mandatory and binding arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce in London, England by one (1) arbitrator in accordance with the said Rules, except as modified by this Agreement.
- 14.03 Arbitration proceeding. The arbitration proceedings shall be held at a mutually acceptable site in [], [] and shall be conducted in English. If the parties are unable to agree on a site, the arbitrator shall select a site. The arbitrator shall have the authority to establish rules and procedures governing the arbitration hearing, but issues of procedure and evidence shall be guided, as applicable, by the Rules of Arbitration referred to above. The parties shall have no right to conduct discovery, unless mutual discovery is conducted as agreed upon, in writing, and approved by the arbitrator. Each party shall have the opportunity to present its

evidence at the hearing. The arbitrator may call for the submission of pre-hearing statements of position and legal authority, but no post-hearing briefs shall be submitted. After the presentation of the evidence has concluded, each party shall submit to the arbitration panel a final offer of its proposed resolution of the dispute. THE ARBITRATOR SHALL NOT HAVE THE AUTHORITY TO AWARD INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OR LOST PROFITS OR REVENUES, AND THE PARTIES EXPRESSLY WAIVE THEIR RIGHT TO RECOVER SUCH DAMAGES.

- 14.04 <u>Arbitration Decision; Expenses.</u> The arbitrator's decision must be rendered within thirty (30) days following the conclusion of the hearing or submission of evidence, but no later than one hundred eighty (180) days after appointment of the arbitrator. All evidence submitted in an arbitration proceeding, transcripts of such proceedings, and all documents submitted by the parties in an arbitration proceeding shall be kept confidential and shall not be disclosed to any third party by either party. The decision of the arbitrator, shall be in writing, set forth a summary of the grounds for the decision and shall be final and binding upon the parties as to the issues submitted. Each party shall bear its own costs and expenses incurred, including the costs and fees of its own attorneys and witnesses, and one-half of the expenses, fees and cost of the only arbitrator. No other attorneys' fees, costs or expenses may be awarded to a party.
- 15. Audit Rights. For a period of two (2) years from the date that a charge was invoiced to the COMPANY, PACIFIC DRILLING shall keep and cause any third parties engaged under the terms of Section 3.01(h) to keep books, payrolls, receipts, vouchers, financial records, personnel records and any document pertaining to performance of the Work, and the COMPANY shall have the right to perform an audit of such documents, including for the purpose of verifying that the amounts invoiced under Section 5.02(b) above were correct. In connection with any such audit, PACIFIC DRILLING will make such documents available at reasonable times and places. If the COMPANY so requests, upon the expiration of said two (2)-year period, PACIFIC DRILLING will box and ship to the COMPANY at the COMPANY's expense all such documents or copies thereof to enable the COMPANY to preserve such records PROVIDED ALWAYS THAT PACIFIC DRILLING shall not be required to furnish the COMPANY with records or portions of records and documents which do not relate to the operation of the Rig.
- 16. <u>Inspection Rights</u>. PACIFIC DRILLING shall, upon the request of the COMPANY, make arrangements for representatives of the COMPANY as well as third parties to visit the Rig and any shorebase at any time for any purpose. In arranging all such inspections, due regard shall be given to avoiding any disruption of the operation of the Rig or such shorebase and availability of bed space.
- 17. <u>Successors and Assigns</u>. This Agreement shall bind and inure to the benefit of PACIFIC DRILLING, the COMPANY and their respective successors and permitted assigns. Nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and permitted assigns, any

rights, remedies, obligations or liabilities under or by reason of this Agreement, other than as provided herein. This Agreement may not be assigned by either party without the prior written consent of the other party.

18. <u>Taxes</u>.

- 18.01 The COMPANY shall be liable for all levies, taxes or withholdings of any nature whatsoever, together with any penalties or interest (other than interest or penalties incurred by PACIFIC DRILLING solely as a result of PACIFIC DRILLING's failure to account to the tax authorities for any reimbursement received from the COMPANY thereon) (herein collectively called "Taxes") imposed upon or withheld from or assessed against the COMPANY or PACIFIC DRILLING by any national or local government or taxing authority of any country upon or with respect to the ownership, operation or use of the Rig or upon payments made to PACIFIC DRILLING under this Agreement, provided that the COMPANY shall not be liable for any Taxes which are described in Section 18.02.
- 18.02 PACIFIC DRILLING shall be liable to pay Taxes which (i) are based on income, profits or gain (if any), including any Taxes on deemed or imputed profits or (ii) are imposed or assessed by the government of a country under which PACIFIC DRILLING is organized or managed, or any political subdivision thereof.
- 18.03 Control of Determination of Certain Taxes.
 - (a) In regard to Taxes described in 18.01 and 18.02, PACIFIC DRILLING shall have full responsibility for and control and discretion over all direct and indirect aspects of the determination thereof including, without limitation, control over tax accounting, elections, reporting practices, return filings, audits, administrative proceedings, settlements and litigation.
 - (b) In regard to Taxes described in 18.02 and any payroll, social security or income taxes incurred by PACIFIC DRILLING on behalf of its employees for which PACIFIC DRILLING is entitled to reimbursement under Section 5.02, PACIFIC DRILLING shall have full responsibility for and control and discretion over all direct and indirect aspects of the determination thereof including, without limitation, control over tax accounting, elections, reporting practices, return filings, audits, administrative proceedings, settlements and litigation.
- 19. <u>Intellectual Property</u>. Any (i) inventions, whether patentable or not, developed or invented, (ii) copyrightable material and (iii) other ideas, concepts, know-how, tools, models, processes, methodologies and techniques (collectively, "Intellectual Property") developed by PACIFIC DRILLING or its employees during and connected with the performance of services under this Agreement shall be and remain the property of PACIFIC DRILLING, which shall have the sole and exclusive right to the exploitation hereof. Subject to the terms of this Agreement, PACIFIC DRILLING grants and the

- COMPANY accepts a worldwide, nonexclusive royalty-free license to such Intellectual Property for use only in conjunction with the Rig (such license being transferable to any subsequent owner of the Rig).
- 20. <u>Government Restrictions/Business Ethics</u>. PACIFIC DRILLING shall not be required to undertake any actions, omissions, services or performance which would or may place PACIFIC DRILLING in violation of the Governmental Requirements of United States of America or those of any other country.
- 21. <u>Counterparts</u>. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.
- 22. <u>Inconsistencies</u>. If the Drilling Contract or any other contract entered into by the COMPANY in connection with the Rig contains any provision which is inconsistent with, conflicts with or is incompatible with any provision of this Agreement then the provisions of the Drilling Contract or such other drilling contract, as the case may be, shall prevail.
- 23. <u>Entire Agreement</u>. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous arrangements or understandings with respect thereto.
- 24. <u>Amendments</u>. The terms and provisions of this Agreement may be modified or amended, or any of the provisions hereof waived, temporarily or permanently, only by an instrument in writing executed and delivered by all the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provision hereof (whether or not similar). No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof.
- 25. <u>Interpretation; Headings</u>. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement. The headings of the sections of this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of this Agreement.
- 26. <u>Currency</u>. Any currency referenced herein shall be denominated in United States dollars.
- 27. <u>Expenses</u>. Each of the parties will bear its own expenses incidental to the preparation of this Agreement and the consummation of the transactions contemplated hereby.
- 28. <u>Severability</u>. If any provision of this Agreement (or any portion thereof) or the application of any such provision (or any portion thereof) to any person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction or arbitration panel, such invalidity, illegality or unenforceability shall not affect any other provision hereof (or the remaining portion thereof) or the application of such provision to any other persons or circumstances.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

[]		
By: Its:			
[]		
By: Its:			

EXHIBIT 1.00

DEFINITIONS

- "<u>Affiliate</u>" means any (i) Person, that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person. For purposes of this definition, the term "control" (including with the correlative meanings, the terms "controlled by" and "under common control with") means the possession directly or indirectly of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by trust, management agreement, contract or otherwise. This definition does not exclude those entities in which Company maintains such control but owns less than fifty percent (50%) interest.
 - "Agreement" means the Vessel Management Agreement of which this Exhibit is a part.
- "Bankruptcy" means (a) the voluntary commencement by a Person of any proceeding, or the voluntary filing of any petition seeking relief, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law, (b) the consent by a Person to the institution of, or the failure by such Person to contest in a timely and appropriate manner, any involuntary proceeding or any involuntary filing of any petition of the type described in clause (a) above, (c) the application for or consent by a Person to the appointment of a receiver, trustee, custodian, sequestrator, conserver or similar official for such Person for a substantial part of the property or assets of such Person, (d) the filing of an answer by a Person admitting the material allegations of the petition filed against such Person in any such proceeding, (e) the consent by a Person to any order for relief issued with respect to any such proceeding, (f) the making of a general assignment for the benefit of creditors by a Person, (g) a Person admitting in writing the inability of such Person, or such Person failing generally, to pay its debts as they become due, or (h) the taking of any action by a Person for the purpose of effecting any of the foregoing.
- "Business Day" means any day that is not a Saturday, Sunday or a holiday on which national banks in New York City or London are closed for business.
 - "COMPANY" shall have the meaning given to it in the preamble of the Agreement.
- "<u>Governmental Authority</u>" means any government or supernational, national, foreign, federal, state or local judicial, legislative, executive, administrative or regulatory body or authority or classification society.
- "Governmental Requirements" means any law, statute, code, ordinance, order, determination, rule, regulation, treaty, publication, judgment, decree, injunction, franchise, permit, registration, consent, approval, certificate, license, authorization or other directive or requirement (whether or not having the force of law), including, without limitation, environmental laws, energy regulations and occupational, safety and health standards or controls, of any Governmental Authority.

Exhibit 1.00-1

- "Person" means an individual, partnership, corporation, limited liability company, trust, unincorporated association or organization or Governmental Authority.
- "Stacked" means the mode of the Rig during that period of time commencing seven (7) days after the Rig has been safely moored after completing a drilling or other use contract and ending fourteen (14) days before lifting the first anchor when the Rig is mobilizing for the performance of a contract. However, in any event the Rig shall be deemed as no longer Stacked when the COMPANY begins receiving dayrate revenue pursuant to a drilling or other use contract. "Stacking" shall have a correlative meaning.
 - "PACIFIC DRILLING" shall have the meaning given to it in the preamble of the Agreement.
 - "Third Party Claim" shall have the meaning given to it in section 8.02 (c) of the Agreement.
 - "Work" shall have the meaning given to it in Section 2 of the Agreement.

Exhibit 1.00-2

EXHIBIT 2.00

Insurance Coverage (Section 3.02 (d))

- (A) Statutory Workmen's Compensation coverage in any area in which the Rig is located or any other jurisdiction for which PACIFIC DRILLING is obligated to pay benefits or provide coverage to employees who are rendering services to the Rig pursuant to this Agreement.
- (B) Employer's Liability coverage, including but not limited to Maritime Employer's Liability and liability to provide transportation, maintenance and cure.
- (C) Comprehensive General Liability Insurance, including but not limited to premises, operations, independent contractors, blanket contractual liability and broad form property damage.
- (D) Comprehensive Automobile Liability Insurance covering all owned, hired and non-owned automotive equipment in the state or country in which automotive equipment is being utilized.
- (E) Protection and Indemnity Insurance (including crew).
- (F) Excess Liability Insurance coverage.
- (G) Other insurance normally taken out by PACIFIC DRILLING to cover its employees.

Exhibit 2.00-1

INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT is dated as of June 3, 2013 (as amended, restated, supplemented or otherwise modified from time to time in accordance with its terms, this "Agreement"), by and among: (i) CITIBANK, N.A., as Pari Passu Collateral Agent (as defined below) for the Pari Passu Secured Parties referred to below; (ii) CITIBANK, N.A., as administrative agent for the Revolving Credit Agreement Secured Parties referred to below (together with its successors and permitted assigns, in such capacity, the "Revolving Credit Agreement Agent"); (iii) CITIBANK, N.A., as administrative agent for the Term Loan Secured Parties referred to below (together with its successors and permitted assigns, in such capacity, the "Term Loan Agent"); (iv) DEUTSCHE BANK TRUST COMPANY AMERICAS, as trustee under the Indenture (as defined below) (together with its successors and permitted assigns, in such capacity, the "Trustee"); (v) PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a société anonyme (together with its successors and permitted assigns, the "Company"); and (vi) each other Grantor (as defined below) and other party signatory hereto or that has executed a Joinder Consent Agreement (as defined below).

PRELIMINARY STATEMENTS

- 1. Capitalized terms used herein and not defined herein have the respective meanings given to them in the Revolving Credit Agreement or, if not defined therein, the Term Loan Agreement, in each case referred to below.
- 2. The Company intends to enter into a Credit Agreement, dated as the date hereof (as the same may be amended, restated, modified, renewed, refunded, replaced or Refinanced, the "*Revolving Credit Agreement*"), with the lenders from time to time party thereto (collectively, the "*Revolving Credit Agreement Lenders*"), the Issuing Lenders (as defined therein) and the Revolving Credit Agreement Agent. The Revolving Credit Agreement qualifies as the "Revolving Credit Agreement" and a "Credit Facility" as defined in the Indenture.
- 3. The Company intends to enter into a Term Loan Agreement, dated as of the date hereof (as the same may be amended, restated, modified, renewed, refunded, replaced or Refinanced, the "*Term Loan Agreement*"), with the lenders from time to time party thereto (collectively, the "*Term Loan Lenders*") and the Term Loan Agreement qualifies as the "Term Loan Agreement" and a "Credit Facility" as defined in the Indenture.
- 4. The Company intends to enter into an Indenture, dated as of the date hereof (as the same may be amended, restated, modified, renewed, refunded, replaced or Refinanced, the "*Indenture*"), with the Guarantors party thereto and the Trustee.
- 5. Certain of the Grantors intend to grant to the Pari Passu Collateral Agent, for the benefit of the Pari Passu Secured Parties, a pari passu first-priority security interest in and lien upon certain of their assets pursuant to the terms of the Collateral Agreements (as defined below) in order to secure (i) in the case of the Pari Passu Excluded Collateral, the payment in full of the Revolving Credit Agreement Obligations, and (ii) in all other cases, the payment in full of the Pari Passu Obligations (as defined below).
- 6. In connection with the execution and delivery of the Revolving Credit Agreement, the Term Loan Agreement, the Indenture and the Collateral Agreements, the parties hereto desire to enter into this Agreement.

ARTICLE I

INTERPRETATION OF THIS AGREEMENT

- **Section 1.1** *Defined Terms.* As used in this Agreement, capitalized terms have the respective meanings specified below or set forth in the Section of this Agreement referred to immediately following such term:
 - "Additional Vessel" means a drilling rig or drillship or other vessel that is used or useful in the Permitted Business.
- "Affiliate" shall mean, with respect to any Person, any other Person directly or indirectly controlling (including, but not limited to, all directors and officers of such Person), controlled by, or under direct or indirect common control with, such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power (i) to vote 10% or more of the shares of securities having ordinary voting power for the election of directors (or equivalent governing body) of such Person or (ii) to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting shares of securities, by contract or otherwise.
- "Agents" means, collectively, the Pari Passu Collateral Agent, the Revolving Credit Agreement Agent, the Term Loan Agent, the Trustee and any Authorized Representative for the Other Pari Passu Secured Parties that is specified in the applicable Joinder Agreement, and "Agent" means any one of them.
 - "Agreement" has the meaning set forth in the first paragraph of this Agreement.
- "Alternate Controlling Party" means (a) in the case of the Revolving Credit Agreement Agent, the Term Loan Agent, (b) in the case of the Term Loan Agent, the Trustee, and (c) in the case of the Trustee, the Major Non-Controlling Authorized Representative.
- "Assignment of Earnings" means, collectively, each Assignment of Earnings executed by a Grantor in favor of the Pari Passu Collateral Agent, as amended, amended and restated, or supplemented from time to time in accordance with its terms.
- "Assignment of Insurances" means, collectively, each Assignment of Insurance Proceeds executed by a Grantor in favor of the Pari Passu Collateral Agent, as amended, amended and restated, or supplemented from time to time in accordance with its terms.
- "Authorized Representative" means (a) in the case of the Revolving Credit Agreement Obligations or the Revolving Credit Agreement Secured Parties, the Revolving Credit Agreement Agent, (b) in the case of the Term Loan Obligations or the Term Loan Secured Parties, the Term Loan Agent, (c) in the case of the Notes Obligations or the Notes Secured Parties, the Trustee, and (d) in the case of any Series of Other Pari Passu Obligations or Other Pari Passu Secured Parties that become subject to this Agreement after the date hereof, the Authorized Representative named for such Series in the applicable Joinder Agreement.

- "Bankruptcy Case" has the meaning assigned to such term in Section 4.11.
- "Bankruptcy Code" means Title 11 of the United States Code, as amended.
- "Bankruptcy Law" means the Bankruptcy Code and any similar Federal, state or foreign bankruptcy, insolvency, receivership or similar law, including laws for the relief of debtors.
- "Business Day" means any day except Saturday, Sunday and any day which shall be in New York, New York, Houston, Texas or Luxembourg a legal holiday or a day on which banking institutions are authorized or required by law or other government action to close.
- "Collateral Agreements" means, collectively, each Assignment of Earnings, Assignment of Insurances, Mortgage, Pledge Agreement, Security Agreement, this Agreement and each other instrument, including any assignment, security agreement, mortgage, deed, pledge agreement or other security instrument, creating Liens in favor of the Pari Passu Collateral Agent as required by the Pari Passu Documents or this Agreement, in each case, as the same may be in effect from time to time.
- "Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.
- "Common Collateral" means, at any time, Pari Passu Collateral in which the Pari Passu Collateral Agent and/or holders of one or more Series of Pari Passu Obligations (or their respective Authorized Representatives) have been granted (or purported to be granted) Liens, whether or not any such Liens are voided, avoided, invalidated, lapsed or unperfected. Notwithstanding the foregoing, Pari Passu Excluded Collateral shall not constitute Common Collateral.
 - "Company" has the meaning set forth in the first paragraph of this Agreement.
 - " Controlling Party " means:
- (a) the Revolving Credit Agreement Agent until the earlier of (i) the Discharge of Revolving Credit Agreement Obligations and (ii) the Non-Controlling Parties Enforcement Date;
- (b) thereafter, the Term Loan Agent until the earlier of (i) the Discharge of the Term Loan Obligations and (ii) the Non-Controlling Parties Enforcement Date;
- (c) thereafter, the Trustee until the earlier of (i) the Discharge of the Notes Obligations, and (ii) the Non-Controlling Parties Enforcement Date; and
 - (d) thereafter, the Major Non-Controlling Authorized Representative.

- "Controlling Secured Parties" means, at any time with respect to any Common Collateral, the Series of Pari Passu Secured Parties whose Authorized Representative is the Controlling Party for such Common Collateral at such time.
 - "DIP Financing" has the meaning set forth in Section 4.11.
 - "DIP Financing Liens" has the meaning set forth in Section 4.11.
 - "DIP Lenders" has the meaning set forth in Section 4.11.
- "Discharge" means, except to the extent otherwise provided in Section 2.14, with respect to any Common Collateral and any Series of Pari Passu Obligations other than the Revolving Credit Agreement Obligations, the date on which such Series of Pari Passu Obligations (according to the provisions thereof) is no longer required to be secured by such Common Collateral. The term "Discharged" shall have a corresponding meaning.
- "Discharge of Revolving Credit Agreement Obligations" shall mean, except to the extent otherwise provided in Section 2.14, payment in full, in cash (except for contingent indemnities and cost and reimbursement obligations to the extent no claim has been made) constituting Dollars of all Revolving Credit Agreement Obligations and, with respect to letters of credit or letter of credit guaranties outstanding under the Revolving Credit Agreement Obligations and Other Obligations (as defined in the Revolving Credit Agreement) outstanding under the Revolving Credit Agreement Obligations, delivery of cash collateral or backstop letters of credit in respect thereof in a manner consistent with the Revolving Credit Agreement and otherwise reasonably satisfactory to the Revolving Credit Agreement Agent, in each case after or concurrently with the termination of all commitments to extend credit thereunder and the termination of all commitments of the Revolving Credit Agreement Secured Parties under the Revolving Credit Agreement Documents; provided that the Discharge of Revolving Credit Agreement Obligations shall not be deemed to have occurred if such payments are made with the proceeds of other Revolving Credit Agreement Obligations that constitute an exchange or replacement for or a Refinancing of such Revolving Credit Agreement Obligations.
 - "Dollars" and the sign "\$" shall each mean lawful money of the United States of America.
 - "Event of Default" means, as the context requires, any "Event of Default," as defined in any Pari Passu Document.
 - "Grantor" means the Company, each Guarantor and each Internal Charterer.
 - "Guarantor" means any Person defined as a "Guarantor" or a "Subsidiary Guarantor" in any applicable Pari Passu Document.
 - "Holders" means the Holders (as defined in the Indenture).
 - "Indenture" has the meaning set forth in the Preliminary Statements of this Agreement.

- "Indenture Documents" means the Indenture, the Collateral Agreements and any agreement, instrument or other document evidencing or governing any Notes Obligations.
- "Insolvency or Liquidation Proceeding" means: (a) any voluntary or involuntary case or proceeding under any Bankruptcy Law with respect to any Grantor, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Grantor or with respect to any of its assets, (c) any liquidation, dissolution, reorganization or winding up of any Grantor whether voluntary or involuntary and whether or not involving insolvency or bankruptcy (other than any liquidation, dissolution, reorganization or winding up of any Subsidiary of the Company permitted by the Pari Passu Documents), (d) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Grantor or (e) any other proceeding of any type or nature in which substantially all claims of creditors of any Grantor are determined and any payment or distribution is or may be made on account of such claims.
- "Intercompany Subordination Agreement" means the Intercompany Subordination Agreement among certain Grantors and certain Restricted Subsidiaries of the Company, as the same may be amended, restated, supplemented or modified from time to time in accordance with its terms.
 - "Internal Charterer" means any Person defined as an "Internal Charterer" in any applicable Pari Passu Document.
- "Joinder Agreement" means each document, substantially in the form of Exhibit A hereto, executed and delivered as permitted under this Agreement in order to create an additional Series of Other Pari Passu Obligations or a Refinancing of any existing Series of Pari Passu Obligations to the extent constituting a new Series of Pari Passu Obligations.
 - "Joinder Consent Agreement" means a joinder and consent agreement in substantially the form attached hereto as Schedule I.
- "Major Non-Controlling Authorized Representative" means, at any time with respect to any Pari Passu Collateral, the Authorized Representative of the Series of Other Pari Passu Obligations that constitutes the largest outstanding principal amount of any then-outstanding Series of Pari Passu Obligations, other than the Revolving Credit Agreement Obligations, the Term Loan Obligations and the Notes Obligations, with respect to such Pari Passu Collateral at such time.
- "Mortgage" means each Ship Mortgage, each other mortgage, deed of trust, deed to secure debt and any other document or instrument under which any Lien on property owned or leased by any Grantor is granted to secure Pari Passu Obligations under any Pari Passu Document or under which rights or remedies with respect to any such Liens are governed, as the same may be amended, supplemented or modified from time to time.
- "Non-Conforming Plan of Reorganization" means any Plan of Reorganization that contravenes the terms of this Agreement, including without limitation, any Plan of Reorganization that does not provide for payments in respect of the Revolving Credit Agreement Obligations to be made with the priority specified in <u>Section 2.5</u> and that has not been approved by the Required Lenders (as defined in the Revolving Credit Agreement).

- "Non-Controlling Authorized Representative" means, at any time, with respect to any Common Collateral, an Authorized Representative that is not the Controlling Party with respect to such Common Collateral at such time.
- "Non-Controlling Parties Enforcement Date" means that date that is 180 days after the occurrence of both (a) an Event of Default, as defined in the Term Loan Agreement or other applicable governing instrument for the Series of Pari Passu Obligations for which the Alternate Controlling Party is the Authorized Representative, as applicable, and (b) the Pari Passu Collateral Agent's and each other Authorized Representative's receipt of written notice from the Alternate Controlling Party certifying that (i) such Authorized Representative is the Alternate Controlling Party and that an Event of Default, as defined in the Term Loan Agreement or such other applicable governing instrument for that Series of Pari Passu Obligations, has occurred and is continuing and (ii) the Pari Passu Obligations of that Series are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the Term Loan Agreement or such other applicable governing instrument for that Series of Pari Passu Obligations; provided that the Non-Controlling Parties Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Common Collateral (1) at any time that (A) the then current Controlling Party has commenced (or caused the Pari Passu Collateral Agent to commence) and is diligently pursuing any enforcement action with respect to all or a material portion of such Common Collateral Agent thereof or (2) at any time a Grantor that has granted a security interest in such Common Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding.
- "Non-Controlling Secured Parties" means, at any time, with respect to any Common Collateral, the Pari Passu Secured Parties that are not Controlling Secured Parties with respect to such Common Collateral at such time.
 - "Notes" means the Company's 5.375% senior secured notes due 2020, issued on the date hereof.
- "Notes Obligations" means the Obligations (as defined in the Indenture) of the Grantors under the Indenture, the Notes, the Collateral Agreements and any other related document or instrument executed and delivered pursuant to the Indenture.
 - "Notes Secured Parties" means, collectively, the Holders and the Trustee.
- "Notice of Default" means a written notification given by or on behalf of the Pari Passu Collateral Agent stating that an Event of Default has occurred and is continuing.
- "Notice of Shared Payment" means a written notification given by or on behalf of any Pari Passu Secured Party stating that such Pari Passu Secured Party has received a Shared Payment.

- " Offering Memorandum" means the Offering Memorandum dated May 17, 2013 of the Company relating to the Notes issued on the date hereof.
- "Other Pari Passu Document" means the Collateral Agreements and any other agreement, instrument or other document evidencing or governing any Other Pari Passu Obligations.
- "Other Pari Passu Obligations" means other Indebtedness of the Grantors that is equally and ratably secured with the Pari Passu Obligations as permitted by the Pari Passu Documents and is designated by the Company pursuant to Section 4.12 as an Other Pari Passu Obligation.
- "Other Pari Passu Secured Parties" means the holders of any Other Pari Passu Obligations and any Authorized Representative with respect thereto.
- "Pari Passu Collateral" means, collectively, all assets and properties subject to Liens created (or purported to be created) pursuant to any Collateral Agreement to secure one or more Series of Pari Passu Obligations.
- "Pari Passu Collateral Agent" means Citibank, N.A, and its replacements, successors and assigns, in its capacity as the collateral agent for all holders of Pari Passu Obligations.
- "Pari Passu Documents" means, collectively, the Revolving Credit Agreement Documents, the Term Loan Documents, the Indenture Documents and any other document or instrument evidencing or governing any Other Pari Passu Obligations.
- "Pari Passu Excluded Collateral" means any cash, certificate of deposit, deposit account, money market account or other such liquid assets to the extent that such cash, certificate of deposit, deposit account, money market account or other such liquid assets are on deposit or maintained with the Revolving Credit Agreement Agent or any other Revolving Credit Agreement Secured Party (other than the Pari Passu Collateral Agent, in its capacity as such) to secure the Revolving Credit Agreement Obligations.
 - "Pari Passu Lien" means any Lien on the Common Collateral.
- "Pari Passu Obligations" means (a) the Revolving Credit Agreement Obligations, (b) the Term Loan Obligations, (c) the Notes Obligations, (d) all Other Pari Passu Obligations and (e) all other obligations of the Grantors in respect of, or arising under, the Pari Passu Documents, plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Pari Passu Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding
- "Pari Passu Secured Party" means (a) the Pari Passu Collateral Agent, (b) the Revolving Credit Agreement Secured Parties, (c) the Term Loan Secured Parties, (d) the Notes Secured Parties, and (e) the holders of Other Pari Passu Obligations.

- "*Permitted Business*" means a business in which the Company and the Restricted Subsidiaries were engaged on the date hereof, as described in the Offering Memorandum, and any business reasonably related or complimentary thereto.
 - "Permitted Liens" means Liens permitted to exist on any Pari Passu Collateral pursuant to any applicable Pari Passu Document.
- "Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity.
- "Plan of Reorganization" shall mean any plan of reorganization, plan of liquidation, agreement for composition, or other type of plan of arrangement proposed in or in connection with any Insolvency or Liquidation Proceeding.
- "Pledge Agreement" means, collectively, each Pledge Agreement, Share Charge or other similar agreement executed by a Grantor in favor of the Pari Passu Collateral Agent, as amended, amended and restated, or supplemented from time to time in accordance with its terms.
- "Possessory Collateral" means any Common Collateral in the possession or control of the Pari Passu Collateral Agent (or its agents or bailees) or any Authorized Representative, to the extent that possession or control thereof perfects a Lien thereon under the Uniform Commercial Code of any jurisdiction, the equivalent legislation of any other jurisdiction or otherwise. Possessory Collateral includes any Certificated Securities, Promissory Notes, Instruments and Chattel Paper (each as defined in the Uniform Commercial Code).
 - "Receiving Party" has the meaning set forth in Section 2.3(a).
- "Refinance" means, in respect of any indebtedness, to amend, restate, supplement, waive, replace, restructure, repay, refund, refinance or otherwise modify from time to time all or any part of such indebtedness. "Refinanced" and "Refinancing" have correlative meanings.
- "Restricted Subsidiary" means any Subsidiary of the Company that is not an Unrestricted Subsidiary (however defined) under all Pari Passu Documents.
 - "Revolving Credit Agreement" has the meaning set forth in the Preliminary Statements of this Agreement.
 - "Revolving Credit Agreement Agent" has the meaning set forth in the first paragraph of this Agreement.
- "Revolving Credit Agreement Documents" means the Revolving Credit Agreement, the Collateral Agreements and any other Credit Documents (as defined in the Revolving Credit Agreement).
 - "Revolving Credit Agreement Lenders" has the meaning set forth in the Preliminary Statements of this Agreement.

- "Revolving Credit Agreement Obligations" means, collectively, (a) the Obligations (as defined in the Revolving Credit Agreement) of the Company and the Guarantors under the Revolving Credit Agreement Documents, in an aggregate principal amount for all such Obligations not to exceed \$600,000,000 (excluding from such cap any increases in the amount of Obligations resulting from fluctuations in exchange rates, it being understood by the parties hereto that the principal amount of Revolving Credit Agreement Obligations may exceed \$600,000,000 as a result of the issuance of letters of credit in foreign currencies, and that such incremental amount shall constitute Revolving Credit Agreement Obligations for all purposes of this Agreement), plus interest and all fees, costs, charges and expenses, including legal fees and expenses to the extent authorized under the Revolving Credit Agreement Documents, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding, and whether or not allowed or allowable in an Insolvency or Liquidation Proceeding, and (b) the Other Obligations (as defined in the Revolving Credit Agreement).
- "Revolving Credit Agreement Secured Parties" means, collectively, the Revolving Credit Agreement Lenders, the other Lender Creditors (as defined in the Revolving Credit Agreement), the Other Creditors (as defined in the Revolving Credit Agreement) and the Revolving Credit Agreement Agent; provided that the Other Creditors (as defined in the Revolving Credit Agreement), in their capacities as such, shall not constitute Pari Passu Secured Parties or be considered holders of Pari Passu Obligations for purposes of the proviso in Section 4.5 (b).
- "Security Agreement" means, collectively, each Security Agreement or other similar agreement executed by a Grantor in favor of the Pari Passu Collateral Agent, as amended, amended and restated, or supplemented from time to time in accordance with its terms.
- "Series" means (a) with respect to the Pari Passu Secured Parties, each of (i) the Revolving Credit Agreement Secured Parties (in their capacities as such), (ii) the Term Loan Secured Parties (in their capacities as such), (iii) the Notes Secured Parties (in their capacities as such), and (iv) the Other Pari Passu Secured Parties (in their capacities as such) that become subject to this Agreement after the date hereof that are represented by a common Authorized Representative (in its capacity as such for such Other Pari Passu Secured Parties) and (b) with respect to any Pari Passu Obligations, each of (i) the Revolving Credit Agreement Obligations, (ii) the Term Loan Obligations, (iii) the Notes Obligations, and (iv) the Other Pari Passu Obligations incurred pursuant to any Other Pari Passu Agreement, which pursuant to any Joinder Agreement, are to be represented hereunder by a common Authorized Representative (in its capacity as such for such Other Pari Passu Obligations).
 - "Shared Payment" has the meaning set forth in Section 2.3(a).
- "Ship Mortgage" means, collectively, the first naval mortgages and other instruments such as statutory mortgages and deeds over the Vessels, each duly registered in the Liberian or other ship registry, as applicable, in favor of the Pari Passu Collateral Agent, as the same may be amended, supplemented or modified from time to time in accordance with its terms.

- "Swap Obligation" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.
 - "Term Loan Agent" has the meaning set forth in the first paragraph of this Agreement.
 - "Term Loan Agreement" has the meaning set forth in the Preliminary Statements of this Agreement.
- "Term Loan Documents" means the Term Loan Agreement, the Collateral Agreements and any agreement, instrument or other document evidencing or governing any Term Loan Obligations.
 - "Term Loan Lenders" has the meaning set forth in the Preliminary Statements of this Agreement.
- "*Term Loan Obligations*" means the Obligations (as defined in the Term Loan Agreement) of the Grantors under the Term Loan Agreement, the Collateral Agreements and any other Loan Documents (as defined in the Term Loan Agreement).
 - "Term Loan Secured Parties" means, collectively, the Term Loan Lenders and the Term Loan Agent.
 - "Transferee" has the meaning set forth in Section 4.7(b).
 - "Triggering Event" has the meaning set forth in Section 2.12.
 - "Trustee" has the meaning set forth in the first paragraph of this Agreement.
- "Uniform Commercial Code" or "UCC" means, unless otherwise specified, the Uniform Commercial Code as from time to time in effect in the State of New York.
- "Vessel" means each of (a) the Liberian flagged vessels the Pacific Bora, the Pacific Mistral, the Pacific Scirocco and the Pacific Santa Ana, and (b) any Additional Vessel hereafter acquired by the Company or any Grantor that is subject to a Mortgage, in each case together with all related spares, equipment and any additions or improvements.
- Section 1.2 Certain Other Terms. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless the context otherwise requires, (i) the term "or" is not exclusive, (ii) words in the singular include the plural, and in the plural include the singular, (iii) "will" shall be interpreted to express a command, (iv) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified in accordance with the Pari Passu Documents and this Agreement, (v) any reference herein to (A) any Person shall be construed to include such Person's successors and permitted assigns and (B) to any Grantor shall include such Grantor as debtor and debtor-in-possession and any receiver or trustee for such Grantor (as the case may be)

in any Insolvency or Liquidation Proceeding, (vi) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (vii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (viii) all references herein to Articles and Sections shall be construed to refer to Articles and Sections of this Agreement unless otherwise stated and (ix) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, and all proceeds thereof.

ARTICLE II

PAYMENTS, ETC.

Section 2.1 Event of Default; Receipt of Sharing Payment. The Pari Passu Collateral Agent shall give a Notice of Default to each Authorized Representative promptly after having actual knowledge of the occurrence of an Event of Default with respect to any of the Pari Passu Obligations. In addition, the Pari Passu Collateral Agent shall give a Notice of Shared Payment to each Authorized Representative immediately upon having actual knowledge of the receipt of a Shared Payment by it or any Pari Passu Secured Party.

Section 2.2 Liens to Rank Equally; Single Set of Security Documents.

- (a) Notwithstanding the date, time, method, manner or order of grant, attachment, recording or perfection of any Pari Passu Lien, and notwithstanding any provision of the Uniform Commercial Code, the laws of the Republic of Liberia, the laws of Luxembourg or any other applicable law or the provisions of any other Pari Passu Documents, or any other circumstance whatsoever, the Pari Passu Collateral Agent and the Pari Passu Secured Parties agree that any Liens held by any Pari Passu Secured Party on the Common Collateral will be equal in all respects with any and all Pari Passu Liens then or thereafter held by or for the benefit of any Pari Passu Secured Party on the Common Collateral and such Liens on the Common Collateral will be and remain equal in all respects for all purposes, including without limitation, with respect to the priority thereof, whether or not any such Liens are subordinated in any respect to any other Liens securing any other obligation or any other Person and whether or not any such Liens are voided, avoided, invalidated, lapsed or unperfected, subject to the provisions of this Section.
- (b) Neither the Pari Passu Collateral Agent nor any Pari Passu Secured Party (other than the Revolving Credit Agreement Agent and the Revolving Credit Agreement Secured Parties) shall have a Lien on any Pari Passu Excluded Collateral.
- (c) None of the Pari Passu Secured Parties shall cause or permit to exist any Liens on Common Collateral securing any Pari Passu Obligations other than Liens in favor of the Pari Passu Collateral Agent securing the Pari Passu Obligations (or any of them as required by applicable law). If at any time any Lien on the Common Collateral shall exist in favor of any Pari Passu Secured Party other than the Pari Passu Collateral Agent, such Pari Passu Secured Party shall ensure that such Lien is either terminated or promptly transferred in favor of the Pari Passu Collateral Agent, and that any Common Collateral constituting Possessory Collateral, from time to time in its possession or control, shall be promptly transferred to the Pari Passu Collateral Agent.

Section 2.3 Sharing of Payments.

- (a) Each Pari Passu Secured Party (a "Receiving Party") agrees that, so long as the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations have not occurred, any and all Common Collateral (or assets and property purported to be Common Collateral) or proceeds thereof received by any Pari Passu Secured Party (in the form of cash or otherwise) pursuant to any Collateral Agreement or by the exercise of any rights available to it under applicable law or in any Insolvency or Liquidation Proceeding or in connection with any disposition of, collection on, or in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to, such Common Collateral (each a "Shared Payment"), is to be paid to the Pari Passu Collateral Agent, which shall distribute such proceeds among the Pari Passu Secured Parties in accordance with Section 2.5 below. Without limiting the foregoing and for the avoidance of doubt, a Shared Payment includes any payment or distribution of any kind or character, whether in cash, property, stock or obligations (and the proceeds thereof), which may be payable or deliverable in respect of the Common Collateral, including distributions in an Insolvency or Liquidation Proceeding in respect of the Common Collateral. If a Shared Payment is in a form other than cash, then such non-cash proceeds shall be held by the Pari Passu Collateral Agent as additional collateral and, at such time as such non-cash proceeds are monetized or produce cash proceeds, shall be applied in the order of application set forth in Section 2.5. If, in any Insolvency or Liquidation Proceeding, debt obligations of the reorganized debtor secured by Liens upon any property of the reorganized debtor are distributed pursuant to a confirmed Plan of Reorganization or similar dispositive restructuring plan, on account of the Pari Passu Obligations, then, to the extent the debt obligations distributed are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations and the proceeds thereof.
- (b) Each Receiving Party shall segregate and hold all Shared Payments received by it in trust for the benefit of, and forthwith shall transfer and pay over to, the Pari Passu Collateral Agent for the benefit of the Pari Passu Secured Parties in the same form as received, together with any necessary endorsements, or as a court of competent jurisdiction may otherwise direct.
- (c) Notwithstanding anything in this Section 2.3 to the contrary but subject to Sections 2.10 and 2.11, the Pari Passu Secured Parties shall have the rights and remedies available to them under the applicable Pari Passu Documents upon the occurrence of an applicable Event of Default or otherwise, including, without limitation, the right to (i) accelerate any of the Pari Passu Obligations owing to such Pari Passu Secured Party, (ii) institute suit against any Grantor, and (iii) take any other enforcement action with respect to any applicable Event of Default.
- (d) Whenever any Authorized Representative shall be required, in connection with the exercise of its rights or the performance of its obligations hereunder, to determine the existence or amount of any Pari Passu Obligations of any Series, or the Common Collateral

subject to any Lien securing the Pari Passu Obligations of any Series, it may request that such information be furnished to it in writing by each other Authorized Representative, as applicable, and shall be entitled to make such determination on the basis of the information so furnished; provided, however, that if an Authorized Representative shall fail or refuse reasonably promptly to provide the requested information, the requesting Authorized Representative shall be entitled to make any such determination or not make any determination by such method as it may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of the Company. Each Authorized Representative may rely conclusively, and shall be fully protected in so relying, on any determination made by it in accordance with the provisions of the preceding sentence (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Grantor, any Pari Passu Secured Party or any other person as a result of such determination.

Section 2.4 *Pari Passu Collateral Agent and Shared Payments*. Each Pari Passu Secured Party agrees that the Pari Passu Collateral Agent shall distribute Shared Payments to the respective Agents for the Pari Passu Secured Parties in accordance with the terms of this Agreement, which Shared Payments received by any Agent shall be applied by such Agent in accordance with the terms and provisions of the applicable Pari Passu Documents for which such Agent acts as agent. Each Receiving Party shall remit any Shared Payment received by it to the Pari Passu Collateral Agent for distribution in accordance with <u>Section 2.5</u>.

Section 2.5 Distribution of Shared Payments .

- (a) Each Pari Passu Secured Party agrees that all Shared Payments shall be distributed by the Pari Passu Collateral Agent as follows:
- (i) *first*, to the payment of all unpaid fees, expenses, reimbursements and indemnification amounts incurred by the Pari Passu Collateral Agent and all fees owed to it in connection with such collection or sale or otherwise in connection with this Agreement or any other Pari Passu Document (regardless of whether allowed or allowable in an Insolvency or Liquidation Proceeding), pro rata in accordance with the relative amounts thereof on the date of any payment or distribution;
- (ii) *second*, to the payment of the Revolving Credit Agreement Obligations, including any interest, fees, costs, expenses, charges or other amounts, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding (regardless of whether allowed or allowable in any such Insolvency or Liquidation Proceeding);
- (iii) *third*, after the Discharge of Revolving Credit Agreement Obligations has occurred, to the payment of the other Pari Passu Obligations, including any interest, fees, costs, expenses, charges or other amounts, in each case whether accrued or incurred before or after the commencement of an Insolvency or Liquidation Proceeding (regardless of whether allowed or allowable in any such Insolvency or Liquidation Proceeding), *pro rata* in accordance with the relative amounts thereof on the date of any payment or distribution; and
- (iv) *fourth*, any surplus proceeds then remaining after the Discharge of all Pari Passu Obligations will be returned to the applicable Grantor or to whomever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct;

provided, in any event, if the Pari Passu Obligations include Swap Obligations, no Shared Payments shall be allocated to any holder of such Swap Obligations (in its capacity as such) on account of such Swap Obligations to the extent a guaranty of such Swap Obligations is made by, or such Common Collateral is owned by, a Guarantor that is not an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation.

(b) For the avoidance of doubt, until the Discharge of Revolving Credit Agreement Obligations has occurred, no payments or distributions of any kind pursuant to <u>Section 2.5(a)</u> shall be made on account of the Pari Passu Obligations other than the Revolving Credit Agreement Obligations (except for payments to the Pari Passu Collateral Agent in accordance with <u>Section 2.5(a)(i)</u>).

Section 2.6 Effectiveness in Insolvency or Liquidation Proceedings, Separate Classification. This Agreement, which the parties hereto expressly acknowledge is a "subordination agreement" under Section 510(a) of the Bankruptcy Code, shall be effective before, during and after the commencement of an Insolvency or Liquidation Proceeding notwithstanding Section 1129(b)(1) of the Bankruptcy Code, and is intended to be and shall be interpreted to be enforceable against the parties hereto including each Grantor to the maximum extent permitted pursuant to applicable law. All references in this Agreement to any Grantor shall include such Person as a debtor-in-possession and any receiver or trustee for such Person in any Insolvency or Liquidation Proceeding. To the maximum extent permitted by law, the Revolving Credit Agreement Obligations (and the security therefor) constitute a separate and distinct class and separate and distinct claims from the other Pari Passu Obligations (and the security therefor).

Section 2.7 Invalidated Payments. If any amount paid by any Pari Passu Secured Party to the Pari Passu Collateral Agent for distribution in accordance with the provisions of this Agreement is subsequently required to be returned or repaid in whole or in part, whether by court order, settlement or otherwise, such Pari Passu Secured Party shall promptly notify the Pari Passu Collateral Agent in writing of such requirement, the Pari Passu Collateral Agent shall notify each Authorized Representative thereof in writing, and such Pari Passu Secured Party shall pay to the Pari Passu Collateral Agent the pro rata portion received by it of such amount, without any interest thereon, for payment to the appropriate party in interest; provided, however, with respect to the Trustee, such amount shall only be paid to the Pari Passu Collateral Agent to the extent that (a) the Trustee has not previously distributed the amount required to be repaid to the Holders, unless the Trustee has been found by a court of competent jurisdiction to have been grossly negligent or to have engaged in willful misconduct in making any such distribution, or (b) such amount has been returned by the Holders to the Trustee, whether as a result of an injunctive order or otherwise. If any such amounts are subsequently recovered by any Pari Passu Secured Party, such Pari Passu Secured Party shall promptly remit such amounts upon receipt to the Pari Passu Collateral Agent, and the Pari Passu Collateral Agent shall redistribute such

amounts to the Pari Passu Secured Parties, without any interest thereon, on the same basis as such amounts were originally distributed. The obligations of the Pari Passu Secured Parties and the Pari Passu Collateral Agent under this <u>Section 2.7</u> shall survive the repayment of the Pari Passu Obligations and termination of all of the Pari Passu Documents.

Section 2.8 Validity of Liens; Gratuitous Bailee for Perfection.

- (a) The Pari Passu Collateral Agent, each Authorized Representative and each other Pari Passu Secured Party agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the perfection, priority, validity or enforceability of any lien or security interest granted to the Pari Passu Collateral Agent or any other Pari Passu Secured Party under any Pari Passu Document constituting a Collateral Agreement, *provided* that nothing in this Agreement will be construed to prevent or impair the rights of any Agent or any other Pari Passu Secured Party to enforce this Agreement to the extent provided hereby.
- (b) The Pari Passu Collateral Agent agrees to hold any Common Collateral constituting Possessory Collateral in its possession or control (or in the possession or control of its agents or bailees) as gratuitous bailee for the benefit of each other Pari Passu Secured Party solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Collateral Agreements, in each case, subject to the terms and conditions of this Section 2.8. Pending delivery to the Pari Passu Collateral Agent, each other Authorized Representative agrees to hold any Common Collateral constituting Possessory Collateral, from time to time in its possession or control, as gratuitous bailee for the benefit of each other Pari Passu Secured Party and any assignee, solely for the purpose of perfecting the security interest granted in such Possessory Collateral, if any, pursuant to the applicable Collateral Agreements, in each case, subject to the terms and conditions of this Section 2.8. The duties or responsibilities of the Pari Passu Collateral Agent and each other Authorized Representative under this Section 2.8 shall be limited solely to holding any Common Collateral constituting Possessory Collateral as gratuitous bailee for the benefit of each other Pari Passu Secured Party for purposes of perfecting the Lien held by such Pari Passu Secured Parties therein.
- **Section 2.9** *Additional Collateral*. If, after the date hereof, any Grantor grants any additional Liens upon any assets other than Pari Passu Excluded Collateral to secure any Pari Passu Obligations, it must substantially concurrently grant a Lien upon such assets to the Pari Passu Collateral Agent as security for all other Pari Passu Obligations.
- Section 2.10 Exercise of Rights and Remedies. The Pari Passu Collateral Agent will, at all times prior to the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, have the exclusive right to enforce rights and exercise remedies with respect to the Common Collateral, or to commence or seek to commence any action or proceeding with respect to such rights or remedies; provided, however, that (a) the Pari Passu Collateral Agent will only take any actions with respect to the Common Collateral at the written direction of the Controlling Party and (b) the Pari Passu Collateral Agent will only take instructions with respect to the Pari Passu Excluded Collateral at the written direction of the Revolving Credit Agreement Agent.

Section 2.11 Exercise of Rights and Remedies with Respect to Pari Passu Collateral .

- (a) Actions with Respect to Common Collateral. With respect to any Common Collateral, (i) only the Pari Passu Collateral Agent shall act or refrain from acting with respect to the Common Collateral, and then only on the written instructions of the Controlling Party, (ii) the Pari Passu Collateral Agent shall not follow any instructions with respect to such Common Collateral from any Non-Controlling Authorized Representative (or any other Pari Passu Secured Party other than the Controlling Party) and (iii) no Non-Controlling Authorized Representative or other Pari Passu Secured Party (other than the Controlling Party) shall, or shall instruct the Pari Passu Collateral Agent to, commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its security interest in or realize upon, or take any other action available to it in respect of, any Common Collateral, whether under any Collateral Agreement, applicable law or otherwise. Notwithstanding the foregoing, the Pari Passu Secured Parties (A) will be entitled to take actions to preserve and protect their claims and interests with respect to the Pari Passu Obligations, to create, prove, preserve and protect the validity, enforceability, perfection and priority of the Pari Passu Collateral and actions that unsecured creditors are entitled to take, and (B) shall take all practical actions in order to preserve and protect their secured claims if the failure to take any such actions could result in a loss of all or any material part of such secured claims, in each case of clauses (A) and (B), to the extent not prohibited herein.
- (b) *Prohibition on Contesting Liens*. No Non-Controlling Authorized Representative or Non-Controlling Secured Party will, or request or attempt to cause the Pari Passu Collateral Agent to, contest, protest or object to any foreclosure proceeding or action brought by the Pari Passu Collateral Agent, the Controlling Party or the Controlling Secured Parties or any other exercise by the Pari Passu Collateral Agent, the Controlling Party or the Controlling Secured Parties of any rights and remedies relating to the Common Collateral.

Section 2.12 *Release of Pari Passu Liens.* In connection with (a) any disposition of any Pari Passu Collateral permitted under the terms of all of the Pari Passu Documents or (b) the enforcement or exercise of any rights or remedies with respect to the Pari Passu Collateral, including any disposition of Pari Passu Collateral (including in connection with any sale pursuant to Section 363 of the Bankruptcy Code), the Liens in favor of the Pari Passu Collateral Agent will automatically be released and discharged upon final conclusion of such disposition or enforcement action, provided that (i) any proceeds from such disposition described in clause (a) above occurring prior to the occurrence of a Triggering Event are applied in accordance with the Pari Passu Documents and (ii) any proceeds from such disposition described in clause (a) above occurring after the occurrence of a Triggering Event and any proceeds from any enforcement action described in clause (b) above are applied in accordance with Section 2.5. Upon the delivery by the Pari Passu Collateral Agent, at the direction of the Controlling Party, of a Notice of Default to each Authorized Representative in accordance with Section 2.1 (a "Triggering Event"), the Pari Passu Collateral Agent will be entitled to exercise remedies with respect to the Common Collateral at the written direction of the Controlling Party and will not be permitted to release Liens on any Common Collateral sold or disposed of by any Grantor (other than as expressly permitted by the Pari Passu Documents) without the consent of the Controlling Party.

Notwithstanding the foregoing, except in connection with the exercise of remedies against the Common Collateral or a release granted following the Discharge of Revolving Credit Agreement Obligations and the Discharge of all of the Pari Passu Obligations and termination of commitments under the Pari Passu Documents, the Pari Passu Collateral Agent shall not release the Liens under the Pari Passu Documents on all or substantially all of the Common Collateral without the individual consent of the Company and each Authorized Representative representing holders of Pari Passu Obligations for whom such collateral constitutes Common Collateral. Prior to taking any action related to the disposition of Common Collateral, the Pari Passu Collateral Agent must be provided with indemnification to its satisfaction. Notwithstanding anything to the contrary contained in this Agreement, neither the Pari Passu Collateral Agent nor any Authorized Representative shall release or discharge any Lien on the Common Collateral, except for a release or discharge by the Pari Passu Collateral Agent where the Pari Passu Collateral Agent has a good faith belief that the terms set forth in clause (a) or clause (b) of this Section 2.12 have been satisfied.

Section 2.13 *Post-petition Interest.* No Pari Passu Secured Party shall oppose or seek to challenge or support any Person challenging any claim by the Pari Passu Collateral Agent or any other Pari Passu Secured Party for allowance in any Insolvency or Liquidation Proceeding of Pari Passu Obligations consisting of post-petition interest (at the rate provided for in the documentation with respect thereto), fees or expenses.

Section 2.14 *Reinstatement*. If, in any Insolvency or Liquidation Proceeding or otherwise, all or part of any payment with respect to any Pari Passu Obligations previously made shall be rescinded for any reason whatsoever, then such Pari Passu Obligations shall be reinstated to the extent of the amount so rescinded and, if theretofore terminated, this Agreement shall be reinstated in full force and effect and such prior termination shall not diminish, release, discharge, impair or otherwise affect the Lien priorities and the relative rights and obligations of the Pari Passu Secured Parties provided for herein.

ARTICLE III

PARI PASSU COLLATERAL AGENT

Section 3.1 Appointment and Authority.

(a) Each of the Pari Passu Secured Parties, by its acceptance hereof, hereby irrevocably designates and appoints the Pari Passu Collateral Agent to act as its agent with respect to the Common Collateral and for purposes of creating a Lien therein and perfection under the Uniform Commercial Code as in effect in the relevant jurisdiction from time to time, as applicable, or any equivalent foreign legislation, with such powers as are specifically delegated to the Pari Passu Collateral Agent by the terms of this Agreement, together with such powers as are reasonably incidental thereto. The Pari Passu Collateral Agent shall not have a fiduciary relationship in respect of any Pari Passu Secured Party by reason of this Agreement or the exercise of any powers delegated to the Pari Passu Collateral Agent hereunder or under the Collateral Agreements.

- (b) Each of the Pari Passu Secured Parties irrevocably authorizes the Pari Passu Collateral Agent, in such capacity, to take such action on such Pari Passu Secured Party's behalf under the provisions of any Collateral Agreement as are expressly delegated to the Pari Passu Collateral Agent and to exercise such powers and perform such duties as are expressly delegated to the Pari Passu Collateral Agent by the terms thereof, together with such other powers as are reasonably incidental thereto. The Pari Passu Collateral Agent shall not have any duties or responsibilities, except those expressly set forth with respect to it in the Collateral Agreements, or any fiduciary relationship with any Pari Passu Secured Party.
- (c) Each of the Pari Passu Secured Parties, by its acceptance hereof, hereby further designates and appoints the Pari Passu Collateral Agent its mortgagee trustee, and transfers to the Pari Passu Collateral Agent the respective rights of each other Pari Passu Secured Party to, at the written direction of the Controlling Party, receive, hold, administer and enforce the Ship Mortgages covering the Vessels, or any one of them, as trustee mortgagee on behalf of the Pari Passu Secured Parties, and to take such action as trustee mortgagee and to exercise such powers respecting the Ship Mortgages as are delegated to a ship mortgagee under such Ship Mortgages or by applicable law, together with such powers that are reasonably incidental thereto, in each case at the written direction of the Controlling Party. The Pari Passu Collateral Agent, as trustee mortgagee hereby declares that it accepts the trust hereby created for the limited purpose of holding the Ship Mortgages and exercising remedies thereunder and agrees to perform such trust for the sole use and benefit of the Pari Passu Secured Parties on the terms set forth herein and upon execution and delivery of each respective Ship Mortgage. In its capacity as trustee mortgagee, the Pari Passu Collateral Agent is entitled to all of the protections and indemnities of the Pari Passu Collateral Agent.
- (d) Each Non-Controlling Secured Party acknowledges and agrees that the Pari Passu Collateral Agent shall be entitled, for the benefit of the Pari Passu Secured Parties, (i) to sell, transfer or otherwise dispose of or deal with any Common Collateral that is not prohibited by this Agreement and (ii) to act solely on the written instructions of the Controlling Party, in each case without regard to any rights to which the Non-Controlling Secured Parties would otherwise be entitled as a result of the Pari Passu Obligations with respect to the applicable Series. Without limiting the foregoing, each Non-Controlling Secured Party agrees that none of the Pari Passu Collateral Agent, the Controlling Party or any other Pari Passu Secured Party shall have any duty or obligation first to marshal or realize upon any type of Common Collateral (or any other collateral securing any of the Pari Passu Obligations), or to sell, dispose of or otherwise liquidate all or any portion of such Common Collateral (or any other collateral securing any Pari Passu Obligations), in any manner that would maximize the return to the Non-Controlling Secured Parties, notwithstanding that the order and timing of any such realization, sale, disposition or liquidation may affect the amount of proceeds actually received by the Non-Controlling Secured Parties from such realization, sale, disposition or liquidation. Each of the Pari Passu Secured Parties waives any claim it may now or hereafter have against the Pari Passu Collateral Agent or the Authorized Representative of any other Series of Pari Passu Obligations or any other Pari Passu Secured Party takes or omits to take (including, actions that the Pari Passu Collateral Agent, any Authorized Representative or any Pari Passu Secured Party takes or omits to take (including, actions with respect to the creation, perfection or continuation of Liens on any Common Collateral, actions with respect to the

collection of any claim for all or any part of the Pari Passu Obligations from any account debtor, guarantor or any other party) in accordance with the Collateral Agreements or any other agreement related thereto or to the collection of the Pari Passu Obligations or the valuation, use, protection or release of any security for the Pari Passu Obligations, (ii) any election by any Controlling Party or any holders of Pari Passu Obligations, in any proceeding instituted under the Bankruptcy Code, of the application of Section 1111(b) of the Bankruptcy Code or (iii) subject to Section 4.11, any borrowing by, or grant of a security interest or administrative expense priority under Section 364 of the Bankruptcy Code by, any Grantor or any of its Subsidiaries, as debtor-in-possession. Notwithstanding any other provision of this Agreement, the Pari Passu Collateral Agent shall not accept any Common Collateral in full or partial satisfaction of any Pari Passu Obligations without the consent of each Authorized Representative representing holders of Pari Passu Obligations for whom such collateral constitutes Common Collateral.

(e) Each of the Pari Passu Secured Parties, by its acceptance hereof, agrees that it will not propose, sponsor, support, vote in favor of or agree to (i) any Non-Conforming Plan of Reorganization or (ii) any Plan of Reorganization, directly or indirectly, that is pursuant to Section 1129(b)(1) of the Bankruptcy Code that has not been approved by the Required Lenders (as defined in the Revolving Credit Agreement).

Section 3.2 Delegation of Duties. The Pari Passu Collateral Agent may execute any of its duties under this Agreement and the other Collateral Agreements by or through employees, agents or attorneys-in-fact and shall not be answerable to the Pari Passu Secured Parties. The Pari Passu Collateral Agent and any such agent or attorney may perform any and all of its duties and exercise its rights and powers by or through their respective Affiliates. The exculpatory provisions of this Article III shall apply to any such employee, agent or attorney and to the Affiliates of the Pari Passu Collateral Agent and any such agent or attorney. The Pari Passu Collateral Agent shall not be responsible for the negligence or misconduct of any agents or attorneys in fact selected by it or its Affiliate with reasonable care.

Section 3.3 Rights as a Pari Passu Secured Party . The Person serving as the Pari Passu Collateral Agent hereunder shall have the same rights and powers in its capacity as a Pari Passu Secured Party under any Series of Pari Passu Obligations that it holds as any other Pari Passu Secured Party of such Series and may exercise the same as though it were not the Pari Passu Collateral Agent and the term "Pari Passu Secured Party" or "Pari Passu Secured Parties" or (as applicable) "Revolving Credit Agreement Secured Party", "Revolving Credit Agreement Secured Parties", "Other Pari Passu Secured Parties", "Other Pari Passu Secured Parties", "Notes Secured Party", "Notes Secured Parties", "Other Pari Passu Secured Parties" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Pari Passu Collateral Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Grantor or any Subsidiary or other Affiliate thereof as if such Person were not the Pari Passu Collateral Agent hereunder and without any duty to account therefor to any other Pari Passu Secured Party. The Pari Passu Collateral Agent, in its individual capacity, is not obligated to be a Pari Passu Secured Party.

Section 3.4 Exculpatory Provisions.

- (a) The Pari Passu Collateral Agent shall have no duties to the Pari Passu Secured Parties except those expressly set forth herein and in the Pari Passu Documents. Neither the Pari Passu Collateral Agent nor any of its officers, directors, employees or agents shall be liable to any Pari Passu Secured Party for any action taken or omitted by the Pari Passu Collateral Agent, its officers, directors, employees and agents, as the case may be, hereunder or in connection herewith, except to the extent caused by its or their gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Pari Passu Collateral Agent:
 - (i) shall not be subject to any fiduciary or other implied duties of any kind or nature to any Person, regardless of whether an Event of Default has occurred and is continuing;
 - (ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Collateral Agreements that the Pari Passu Collateral Agent is required to exercise as directed in writing by the Controlling Party; *provided* that the Pari Passu Collateral Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose it to liability or that is contrary to any Pari Passu Document or applicable law;
 - (iii) shall not, except as expressly set forth herein and in the Collateral Agreements have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Affiliates that is communicated to or obtained by the Person serving as the Pari Passu Collateral Agent or any of its Affiliates in any capacity;
 - (iv) shall not be liable for any action taken or not taken by it (A) with the consent or at the request of the Controlling Party or (B) in the absence of its own gross negligence or willful misconduct, which may include reliance in good faith on a certificate of an authorized officer of the Company stating that such action is permitted by the terms of this Agreement; and shall be deemed not to have knowledge of any Event of Default under any Series of Pari Passu Obligations unless and until written notice describing such Event Default is given by the Company or (as applicable) to the Pari Passu Collateral Agent by the Authorized Representative of such Pari Passu Obligations;
 - (v) shall not be responsible for or have any duty to ascertain or inquire into (A) any statement, warranty or representation made in or in connection with this Agreement or any other Collateral Agreement, (B) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (C) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Event of Default or other default, (D) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Collateral Agreement or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Agreements, (E) the value or the sufficiency of the Common Collateral or any other collateral for any Series of Pari Passu Obligations, or (F) the satisfaction of any condition set forth in any Pari Passu Document, other than to confirm receipt of items expressly required to be delivered to the Pari Passu Collateral Agent;

- (vi) the Pari Passu Collateral Agent shall not have any fiduciary duties or contractual obligations of any kind or nature under any Other Pari Passu Agreement (but shall be entitled to all protections provided to the Pari Passu Collateral Agent therein);
- (vii) with respect to the Pari Passu Documents, may conclusively assume that the Grantors have complied with all of their obligations thereunder unless advised in writing by the Authorized Representative thereunder to the contrary specifically setting forth the alleged violation:
 - (viii) may conclusively rely on any certificate of an officer of the Company provided pursuant to Section 2.12;
- (ix) whenever reference is made in any Pari Passu Document to any action by, consent, designation, specification, requirement or approval of, notice, request or other communication from, or other direction given or action to be undertaken or to be (or not to be) suffered or omitted by the Pari Passu Collateral Agent or to any election, decision, opinion, acceptance, use of judgment, expression of satisfaction or other exercise of discretion, rights or remedies to be made (or not to be made) by the Pari Passu Collateral Agent, it is understood that in all cases the Pari Passu Collateral Agent shall be acting, giving, withholding, suffering, omitting, making or otherwise undertaking and exercising the same (or shall not be undertaking and exercising the same) solely as directed in writing by the Controlling Party; this provision is intended solely for the benefit of the Pari Passu Collateral Agent and its successors and permitted assigns and is not intended to and will not entitle the other parties hereto to any defense, claim or counterclaim under or in relation to any Pari Passu Document, or confer any rights or benefits on any party hereto or thereto;
- (x) notwithstanding any other provision of this Agreement or the Collateral Agreements to the contrary, the Pari Passu Collateral Agent shall not be liable for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated; and
- (xi) the Pari Passu Collateral Agent shall not be required to expend or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties hereunder, and shall not be obligated to take any legal or other action hereunder, which might in its judgment involve or cause it to incur any expense or liability, unless it shall have been furnished with acceptable indemnification.
- (b) The Grantors agree that they shall defend and be jointly and severally liable to reimburse and indemnify the Pari Passu Collateral Agent for reasonable expenses actually incurred by the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties in connection with the execution, delivery, administration and enforcement of this Agreement and from and against any and all liabilities, obligations, losses, damages, penalties, actions,

judgments, suits, costs, actual reasonable expenses or disbursements of any kind and nature whatsoever that may be imposed on, incurred by or asserted against the Pari Passu Collateral Agent, in any way relating to or arising out of this Agreement or any other document delivered in connection herewith or the transactions contemplated hereby, or the enforcement of any of the terms hereof, in each case, except to the extent caused by its gross negligence or willful misconduct. The obligations of the Grantors under this Section 3.4(b) shall survive payment of the Pari Passu Obligations and termination of this Agreement and all of the Pari Passu Documents.

(c) Each Pari Passu Secured Party acknowledges that, in addition to acting as the initial Pari Passu Collateral Agent, Citibank, N.A. also serves as Revolving Credit Agreement Agent, and Term Loan Agent, and that Citibank, N.A. or one or more of its Affiliates may have jointly arranged, syndicated, placed or otherwise participated in the facilities and indebtedness contemplated by the Revolving Credit Agreement, the Term Loan Agreement and the Indenture, and each Pari Passu Secured Party hereby waives any right to make any objection or claim against Citibank, N.A., any of its Affiliates or its counsel (or any successor Pari Passu Collateral Agent or its counsel) based on any alleged conflict of interest or breach of duties arising from the Pari Passu Collateral Agent, Citibank, N.A. or its Affiliates also serving in such other capacities. Any knowledge obtained by the Revolving Credit Agreement Agent, the Term Loan Agent or any Affiliate of Citibank, N.A. regarding the Company, any Grantor or the nature of the transaction described herein, including a default or potential Event of Default shall not be imputed to the Pari Passu Collateral Agent.

Section 3.5 Reliance by Pari Passu Collateral Agent . The Pari Passu Collateral Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it in good faith to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Pari Passu Collateral Agent also may conclusively rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. The Pari Passu Collateral Agent may consult with legal counsel, at the expense of the Company and Grantors (who may include, but shall not be limited to, counsel for the Company or counsel for the Term Loan Agent, the Revolving Credit Agreement Agent or the Trustee), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the written advice of any such counsel, accountants or experts.

Section 3.6 Resignation of Pari Passu Collateral Agent. The Pari Passu Collateral Agent may at any time give written notice of its resignation as Pari Passu Collateral Agent under this Agreement and the other Collateral Agreements to each Authorized Representative and the Company. Upon receipt of any such notice of resignation, the Controlling Party shall have the right (subject, unless an Event of Default relating to the commencement of an Insolvency or Liquidation Proceeding has occurred and is continuing, to the consent of the Company (not to be unreasonably withheld or delayed)) in consultation with the Company, to appoint a successor, which shall be a bank or trust company with an office in the United States, or an Affiliate of any such bank or trust company with an office in the United States. If no such successor shall have been so appointed by the Controlling Party and shall have accepted such appointment within 30

days after the retiring Pari Passu Collateral Agent gives notice of its resignation, then the retiring Pari Passu Collateral Agent may, on behalf of the Pari Passu Secured Parties, appoint a successor Pari Passu Collateral Agent meeting the qualifications set forth above (but without the consent of any other Pari Passu Secured Party or the Company); provided that if the Pari Passu Collateral Agent shall notify the Company and each Authorized Representative that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Pari Passu Collateral Agent shall be discharged from its duties and obligations hereunder and under the other Collateral Agreements (except that in the case of any collateral security held by the Pari Passu Collateral Agent on behalf of the Pari Passu Secured Parties under any of the Collateral Agreements, the retiring Pari Passu Collateral Agent shall continue to hold such collateral security solely for purposes of maintaining the perfection of the security interests of the Pari Passu Secured Parties therein until such time as a successor Pari Passu Collateral Agent is appointed but with no obligation to take any further action at the request of the Controlling Party, any other Pari Passu Secured Parties or any Grantor) and (b) all payments, communications and determinations provided to be made by, to or through the Pari Passu Collateral Agent shall instead be made by or to each Authorized Representative directly, until such time as the Controlling Party appoints a successor Pari Passu Collateral Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Pari Passu Collateral Agent hereunder and under the Collateral Agreements, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Pari Passu Collateral Agent, and the retiring Pari Passu Collateral Agent shall be discharged from all of its duties and obligations hereunder or under the other Collateral Agreements (if not already discharged therefrom as provided above in this Section). After the retiring Pari Passu Collateral Agent's resignation hereunder and under the other Collateral Agreements, the provisions of this Article, Sections 12.06, 13.17 and 13.19 of the Revolving Credit Agreement, Sections 9.06, 10.17 and 10.19 of the Term Loan Agreement, Sections 11.05, 11.06, 11.08 and 11.11 of the Indenture, and the equivalent provision of any Other Pari Passu Agreement shall continue in effect for the benefit of such retiring Pari Passu Collateral Agent, its sub-agents and their respective Affiliates in respect of any actions taken or omitted to be taken by any of them while the retiring Pari Passu Collateral Agent was acting as Pari Passu Collateral Agent. Upon any notice of resignation of the Pari Passu Collateral Agent hereunder and under the other Collateral Agreements, the Grantors agree to use commercially reasonable efforts to transfer (and maintain the validity and priority of) the Liens in favor of the retiring Pari Passu Collateral Agent under the Collateral Agreements to the successor Pari Passu Collateral Agent as promptly as practicable.

Section 3.7 *Collateral and Guaranty Matters*. Each of the Pari Passu Secured Parties irrevocably authorizes the Pari Passu Collateral Agent, at the written direction of the Controlling Party:

(a) to place (at the expense of the Grantors) mortgagee's interest insurance in such amounts, on such terms and with such insurers as the Controlling Party shall determine based solely on advice of an insurance advisor selected by the Controlling Party in its sole discretion to provide payment to the Pari Passu Collateral Agent as the holder of each Ship Mortgage in the event there are no proceeds from the underlying hull policies in a total loss situation because the Grantor has breached its warranties in the hull insurance policy;

- (b) to release any Lien on any property granted to or held by the Pari Passu Collateral Agent under any Collateral Agreement in accordance with <u>Section 2.12</u> or upon receipt of a written request from the Company stating that the releases of such Lien is permitted by the terms of each then extant Pari Passu Document; and
- (c) to release any Grantor from its obligations under the Collateral Agreements upon receipt of a written request from the Company stating that such release is permitted by the terms of each then extant Pari Passu Document.

Section 3.8 Distributions and Consents. In making the distributions to the Agents provided for in Article II hereof and to the extent such distributions are entitled to the benefits of this Agreement, the Pari Passu Collateral Agent shall rely upon information supplied to it by each Authorized Representative with respect to the amounts of Pari Passu Obligations owing to the Pari Passu Secured Parties represented by such Authorized Representative. Each Authorized Representative hereby agrees, on two Business Days' telephonic, telecopy, e-mail or similar notice from the Pari Passu Collateral Agent, to deliver to the Pari Passu Collateral Agent in writing, including by facsimile, a statement of the outstanding balance of the Pari Passu Obligations, if any, owing to such Pari Passu Secured Parties represented by such Authorized Representative as of the date or dates specified in such notice; provided, however, that if an Authorized Representative shall fail or refuse to provide the requested information within such time period, the Pari Passu Collateral Agent shall be entitled to rely on the written direction of the Controlling Party, and the Controlling Party may make any such determination or not make any determination, by such method as the Controlling Party may, in the exercise of its good faith judgment, determine, including by reliance upon a certificate of the Company. The Pari Passu Collateral Agent may rely conclusively, and shall be fully protected in so relying, on any determination made in accordance with the provisions of this Section 3.8 (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Grantor, any Pari Passu Secured Party or any other person as a result of such determination taken in good faith in the absence of the Pari Passu Collateral Agent's gross negligence or willful misconduct.

Section 3.9 Intercompany Subordination Agreement. Each of the Pari Passu Secured Parties, by its acceptance hereof, hereby further designates and appoints the Pari Passu Collateral Agent as its agent to, at the written direction of the Controlling Party, receive, hold, administer and enforce the Intercompany Subordination Agreement, as agent on behalf of the Pari Passu Secured Parties, and to take such actions and to exercise such powers respecting the Intercompany Subordination Agreement as are delegated to the Pari Passu Collateral Agent under the Intercompany Subordination Agreement or by applicable law, together with such powers that are reasonably incidental thereto, in each case at the written direction of the Controlling Party. In its capacity under the Intercompany Subordination Agreement, the Pari Passu Collateral Agent is entitled to all of the protections and indemnities of the Pari Passu Collateral Agent under the Collateral Agreements, and all of the terms and provisions of this Article III that are applicable to Collateral Agreements shall also apply to the Intercompany Subordination Agreement notwithstanding the fact that the Intercompany Subordination Agreement is not a Collateral Agreement.

ARTICLE IV

MISCELLANEOUS

Section 4.1 Governing Law. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAW OF THE STATE OF NEW YORK.

Section 4.2 Pari Passu Secured Party Credit Decision. Each Pari Passu Secured Party acknowledges that it has not relied upon the Pari Passu Collateral Agent or any other Pari Passu Secured Party in making any credit analysis or decision to enter into this Agreement. The Pari Passu Collateral Agent makes no representations or warranty with respect to the foregoing. Each Pari Passu Secured Party also acknowledges that it will not rely upon the Pari Passu Collateral Agent or any other Pari Passu Secured Party in the future in making any credit decisions or in taking or not taking action under this Agreement

Section 4.3 *Counterparts.* This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one agreement, and shall constitute a binding agreement when executed by each of the parties hereto. Delivery of an executed signature page to this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually signed counterpart of this Agreement.

Section 4.4 *Successors and Assigns*. This Agreement shall be binding upon and inure to the benefit of, and be binding upon, the successors and assigns of the parties hereto including any assignees of the Pari Passu Obligations. Each Pari Passu Secured Party agrees that it will not assign any of the Pari Passu Obligations absent an acknowledgment by the assignee thereof of the terms of this Agreement, *provided* that the failure of any Pari Passu Secured Party to obtain such acknowledgment shall not affect the effectiveness of the immediately preceding sentence.

Section 4.5 Amendments to Agreement and Documentation.

- (a) Subject to <u>clauses (b)</u> and <u>(c)</u> below, this Agreement may be amended only in a writing executed by the Pari Passu Collateral Agent, each Authorized Representative and, with respect to any amendment that increases the obligations or reduces the rights of any Grantor hereunder, such Grantor. Neither this <u>Section 4.5</u>, nor any other provision of this Agreement, shall in any way limit the ability of any Pari Passu Secured Party to waive, amend or otherwise modify any document relating to the Pari Passu Obligations (including, without limitation, increasing the respective amounts thereof).
- (b) Notwithstanding <u>clause (a)</u> above, but subject to <u>Sections 2.11</u> and <u>2.12</u>, each Pari Passu Secured Party agrees that the Pari Passu Collateral Agent may enter into any amendment, supplement, consent, waiver, modification or termination with respect to any Collateral Agreement (including to release Liens securing any Pari Passu Obligations), at the written direction of the Controlling Party, in each case, without notice to, or the consent of any Pari Passu Secured Party; *provided*, *however*, that such amendment, supplement, consent, waiver, modification or termination shall not be effective if the effect thereof would be to (i) except as set forth below under <u>Section 4.11</u>, subordinate the Liens of such Pari Passu Secured Party in the

Common Collateral to any other Lien in the Common Collateral (other than Permitted Liens that, under the terms of Pari Passu Documents with respect to such Series are entitled to rank senior in priority to the Liens securing the Pari Passu Obligations of such Series), (ii) effect any changes in the application of proceeds of the Common Collateral in Section 2.5 that would adversely affect such Pari Passu Secured Party or (iii) make any change in provisions dealing with the required vote of holders of the Pari Passu Obligations of such Pari Passu Secured Party required to approve any amendment or waiver. In determining whether an amendment, supplement, consent, waiver, modification or termination with respect to any Collateral Agreement is permitted by this Section 4.5(b), the Pari Passu Collateral Agent may in good faith conclusively rely on a certificate of an officer of the Company stating that such amendment, supplement, consent, waiver, modification or termination is permitted by this Section 4.5(b).

(c) Notwithstanding the other provisions of this Section 4.5, each Authorized Representative and the Pari Passu Collateral Agent (acting upon the written direction of the Controlling Party) may amend or supplement this Agreement without the consent of any other Pari Passu Secured Party: (i) to cure any ambiguity, defect or inconsistency; (ii) to make any change that would provide any additional rights or benefits to the Pari Passu Secured Parties; (iii) to make, complete or confirm any grant of Common Collateral permitted or required by this Agreement or any of the Collateral Agreements; and (iv) to provide for additional obligations of the Grantors or Liens securing such obligations to the extent permitted by the terms of the Pari Passu Documents and not otherwise in contravention of this Agreement; *provided* that if any such amendment or supplement increases the obligations or reduces the rights of any Grantor hereunder, such Grantor shall also have consented to such amendment or supplement.

Section 4.6 *Termination.* Subject to Section 2.14, this Agreement shall terminate upon the Discharge of Revolving Credit Agreement Obligations and the Discharge of all Pari Passu Obligations, as evidenced in a writing furnished to the Pari Passu Collateral Agent by the Controlling Party.

Section 4.7 Cooperation/Transfer.

- (a) Each party hereto agrees to cooperate fully with the other parties hereto, in the exercise of its reasonable judgment, to the end that the terms and provisions of this Agreement may be promptly and fully carried out. Each party hereto also agrees, from time to time, to execute and deliver any and all other agreements, documents or instruments and to take such other actions, all as may be reasonably necessary or desirable to effectuate the terms, provisions and intent of this Agreement.
- (b) In connection with an assignment of all, or of a proportionate part of all, of any Pari Passu Secured Party's right, title and interest under any Pari Passu Document, as the case may be, to any bank, insurance company, other financial institution or other Person (the "*Transferee*"), such Transferee shall become a Pari Passu Secured Party hereunder immediately upon such assignment without further act on the part of any person, and by the acceptance of such assignment such Transferee agrees to be bound by the terms hereof as if originally bound hereunder as a Pari Passu Secured Party.

Section 4.8 *No Waiver.* No failure or delay on the part of any Pari Passu Secured Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder.

Section 4.9 *Notices.* All written communications provided for hereunder shall be in English and delivered in person or by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, and addressed to such party at the address specified on its signature page hereto and, as applicable, at the address set forth in Section 4 of the applicable Joinder Agreement, or as such party may otherwise provide in writing to the other parties from time to time. Any notice to a Grantor shall be given to such Grantor care of the Company, at the address of the Company specified on its signature page hereto, or such other address of the Company as the Company may otherwise provide in writing to the other parties from time to time.

Any party hereto may change its address or facsimile number for notices and other communications hereunder by written notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt (if a Business Day) and on the next Business Day thereafter (in all other cases) if delivered by hand or overnight courier service or sent by facsimile, in each case, delivered, sent or mailed (properly addressed) to such party as provided in this <u>Section 4.9</u> or in accordance with the latest unrevoked direction from such party given in accordance with this <u>Section 4.9</u>.

Section 4.10 No Third Party Beneficiary. No Person other than the parties hereto shall have or be entitled to assert any rights or benefits under this Agreement. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the Pari Passu Secured Parties in relation to one another. Except as expressly provided in this Agreement, none of the Company, any other Grantor, any other Subsidiary of the Company or any other creditor of any of the foregoing shall have any rights or obligations hereunder, and none of the Company, any other Grantor or any other Subsidiary of the Company may rely on the terms hereof. Nothing in this Agreement is intended to or shall impair the obligations of any Grantor, which are absolute and unconditional, to pay any Pari Passu Obligations owed by such Grantor as and when the same shall become due and payable in accordance with their terms.

Section 4.11 Bankruptcy Filing. The provisions of this Agreement shall continue in full force and effect both before and after the filing of any petition by or against any Grantor under any Bankruptcy Law. If any Grantor shall become subject to a case (a "Bankruptcy Case") under the Bankruptcy Code and shall, as debtor(s)-in-possession, move for approval of financing, which, for the avoidance of doubt, may include a roll-up of the Revolving Credit Agreement Obligations ("DIP Financing") to be provided by one or more lenders, which, for the avoidance of doubt, may include the Revolving Credit Agreement Secured Parties (the "DIP Lenders"), under Section 364 of the Bankruptcy Code or the use of cash collateral or the sale of property that constitutes Common Collateral under Section 363 of the Bankruptcy Code, each Pari Passu Secured Party (other than any Controlling Secured Party or any Authorized Representative of any Controlling Secured Party) agrees that it will raise no objection to, nor support any Person objecting to, and shall be deemed to have consented to, any such financing or

to the Liens on the Common Collateral securing the same ("DIP Financing Liens") or to any use of cash collateral or sale that constitutes Common Collateral (including any bid or sale procedure in respect thereof), unless any Controlling Secured Party, or an Authorized Representative of any Controlling Secured Party, shall then oppose or object to such DIP Financing or such DIP Financing Liens or use of cash collateral or sale of Common Collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Common Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party will consent to the subordination of its Liens with respect to such Common Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Pari Passu Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank pari passu with the Liens on any such Common Collateral granted to secure the Pari Passu Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities with respect to such Common Collateral as set forth herein), in each case so long as (A) the Pari Passu Secured Parties of each Series retain the benefit of their Liens on all such Common Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such proceeding, with the same priority vis-à-vis all the other Pari Passu Secured Parties (other than any Liens of the Pari Passu Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the Bankruptcy Case, (B) the Pari Passu Secured Parties of each Series are granted Liens on any additional collateral pledged to any Pari Passu Secured Parties as adequate protection or otherwise in connection with such DIP Financing or use of cash collateral, with the same priority vis-àvis the Pari Passu Secured Parties as set forth in this Agreement, (C) if any amount of such DIP Financing or cash collateral is applied to repay any of the Pari Passu Obligations, such amount is applied pursuant to Section 2.5 of this Agreement, and (D) if any Pari Passu Secured Parties are granted adequate protection, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection are applied pursuant to Section 2.5 of this Agreement; provided that the Pari Passu Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any assets subject to Liens in favor of the Pari Passu Secured Parties of such Series that shall not constitute Common Collateral; and provided, further, that the Pari Passu Secured Parties receiving adequate protection shall not object to any other Pari Passu Secured Party receiving adequate protection comparable to any adequate protection granted to such Pari Passu Secured Parties in connection with a DIP Financing or use of cash collateral.

Section 4.12 Refinancings; Other Pari Passu Obligations.

- (a) The Pari Passu Obligations of any Series, or any part thereof, may be Refinanced, in each case, without notice to, or the consent (except to the extent a consent is otherwise required to permit the Refinancing transaction under any Pari Passu Document) of any other Pari Passu Secured Party, all without affecting the priorities provided for herein or the other provisions hereof; *provided* that the Authorized Representative for the holders of such Refinancing Indebtedness (if not already a party hereto in such capacity) shall have executed a Joinder Agreement on behalf of the holders of such Refinancing Indebtedness.
- (b) The Company may designate hereunder additional obligations as Other Pari Passu Obligations if the incurrence of such obligations is permitted under each of the Pari Passu Documents and this Agreement. If so permitted, the Company shall (i) notify the Pari Passu

Collateral Agent and the Controlling Party in writing of such designation (and the Pari Passu Collateral Agent shall forward such notice to each Authorized Representative then existing) and (ii) cause any applicable agent in connection with such Other Pari Passu Obligations to execute and deliver to each Authorized Representative then existing, a Joinder Agreement on behalf of the applicable Other Pari Passu Secured Parties.

Section 4.13 *Appointment of Pari Passu Collateral Agent* . Each Pari Passu Secured Party hereby irrevocably appoints Citibank, N.A., to act on its behalf as the Pari Passu Collateral Agent hereunder.

Section 4.14 *Severability.* Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

Section 4.15 *Headings*. The descriptive headings of the several sections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

Section 4.16 Submission to Jurisdiction; Waiver of Jury Trial.

(a) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER PARI PASSU DOCUMENT SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, IN EACH CASE WHICH ARE LOCATED IN THE COUNTY OF NEW YORK, AND, BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH PARTY HEREUNDER HEREBY IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HEREUNDER HEREBY FURTHER IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER, AND AGREES NOT TO PLEAD OR CLAIM, IN ANY LEGAL ACTION PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER PARI PASSU DOCUMENTS BROUGHT IN ANY OF THE AFOREMENTIONED COURTS, THAT SUCH COURTS LACK PERSONAL JURISDICTION OVER ANY PARTY HEREUNDER. EACH OF THE PARTIES HEREUNDER FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF BY REGISTERED OR CERTIFIED MAIL, POSTAGE PREPAID, IN THE MANNER PROVIDED FOR NOTICES IN SECTION 4.9, SUCH SERVICE TO BECOME EFFECTIVE 30 DAYS AFTER SUCH DELIVERY. EACH OF THE PARTIES HEREUNDER HEREBY IRREVOCABLY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY OTHER PARI PASSU DOCUMENT THAT SERVICE OF PROCESS WAS IN ANY WAY INVALID OR INEFFECTIVE. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PARI PASSU SECURED PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST ANY PARTY HEREUNDER IN ANY OTHER JURISDICTION.

- (b) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY OF THE AFORESAID ACTIONS OR PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER PARI PASSU DOCUMENT BROUGHT IN THE COURTS REFERRED TO IN CLAUSE (a) ABOVE AND HEREBY FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM
- (c) EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE OTHER PARI PASSU DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
- **Section 4.17** *Conflicts.* In the event of any conflict between the provisions of this Agreement and the provisions of any other Pari Passu Document, the provisions of this Agreement shall govern.
- **Section 4.18** *Additional Guarantors' Consent.* If after the date hereof any Subsidiary of the Company or any Restricted Subsidiary becomes a Guarantor under any Pari Passu Document that was not a Guarantor as of the date hereof, such Guarantor shall execute and deliver a Joinder Consent Agreement.
- Section 4.19 Acknowledgment of Authorized Representatives and Agents. Each Authorized Representative and each other Agent acknowledges and agrees that each of the Pari Passu Collateral Agent and the other Pari Passu Secured Parties have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectability, or enforceability of any of the Pari Passu Documents, the ownership of any Common Collateral, or the perfection or priority of any Liens thereon. Except as otherwise expressly provided herein, the Pari Passu Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the applicable Pari Passu Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. The Pari Passu Collateral Agent and the other Pari Passu Secured Parties shall have no duty to any other Pari Passu Secured Parties to act or refrain from acting in a manner that allows, or results in, the occurrence or continuance of an Event of Default or default under any agreements with any Grantor (including the Pari Passu Documents), regardless of any knowledge thereof that they may have or be charged with.

Section 4.20 *Entire Agreement.* This Agreement embodies the entire agreement and understanding among the parties hereto and supersedes all prior agreements and understandings related to the subject matter hereof.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the date and year first written above.

CITIBANK, N.A., as Pari Passu Collateral Agent

By: /s/ Miriam Y. Molina
Name: Miriam Y. Molina
Title: Vice President

Address:

Citibank, N.A., Agency & Trust 388 Greenwich Street, 14th Fl New York, NY 10013
Attention: Miriam Y. Molina
Facsimile No.: (212) 816-5530

Facsimile No.: (212) 816-5530 E-mail: miriam.molina@citi.com

CITIBANK, N.A., as Revolving Credit Agreement Agent

By: /s/ Robert Malleck
Name: Robert Malleck
Title: Managing Director

Address:

Citibank, N.A. 1516 Brett Road, Ops III New Castle, DE 19720

Attention: Citigroup Global Loans Facsimile No.: (212) 994-0961

E-mail: global.loans.support@citi.com

CITIBANK, N.A., as Term Loan Agent

By: /s/Robert Malleck
Name: Robert Malleck
Title: Managing Director

Address:

Citibank, N.A. 1516 Brett Road, Ops III New Castle, DE 19720 Attention: Citigroup Global Loans Facsimile No.: (212) 994-0961 E-mail: global.loans.support@citi.com

DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee

By: DEUTSCHE BANK NATIONAL TRUST COMPANY

By: /s/ Rodney Gaughan

Name: Rodney Gaughan
Title: Vice President

By: /s/ Linda Reale
Name: Linda Reale
Title: Vice President

Address:

Deutsche Bank Trust Company Americas Trust & Agency Services 60 Wall Street, 27 th Floor MS NYC60-2710 New York, New York 10005

Fax: 732-578-4635

Attn: Corporates Team - Pacific Drilling

With a copy to:

Deutsche Bank Trust Company Americas c/o Deutsche Bank National Trust Company Trust & Agency Services 100 Plaza One, Mailstop JCY03-0699 Jersey City, New Jersey 07311

Fax: 732-578-4635

Attn: Corporates Team - Pacific Drilling

PACIFIC DRILLING S.A.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: Director

Address: Pacific Drilling S.A.

37 rue d'anvers L-1130 Luxembourg Attention: John Boots

Email: j.boots@pacificdrilling.com

Facsimile: 352 278 58 140 Telephone: 352 278 58 139

with a copy to:

Pacific Drilling Services, Inc. 3050 Post Oak Blvd., Suite 1500

Houston, Texas 77056 Attention: Treasurer

Email: j.boots@pacificdrilling.com

Facsimile: (713) 583-5777 Telephone: (713) 334-6662

PACIFIC BORA LTD.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

PACIFIC MISTRAL LTD.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

PACIFIC SCIROCCO LTD.

By: /s/ Christian J. Beckett

Name: Christian J. Beckett

Title: President

PACIFIC SANTA ANA SÁRL

By: /s/ Fred Vleghert
Name: Fred Vleghert
Title: Manager

PACIFIC DRILLING LIMITED

By: /s/ Christian J. Beckett
Name: Christian J. Beckett

Title: President

PACIFIC INTERNATIONAL DRILLING WEST AFRICA LIMITED.

By: /s/ Fred Vleghert
Name: Fred Vleghert
Title: Director

PACIFIC SANTA ANA LTD.

By: /s/ Fred Vleghert
Name: Fred Vleghert
Title: Vice President

PACIFIC DRILLSHIP SÁRL

By: /s/ Christian J. Beckett
Name: Christian J. Beckett

Title: Manager

PACIFIC DRILLING, INC.

By: /s/ Christian J. Beckett
Name: Christian J. Beckett

Title: President

SCHEDULE I

[FORM OF] JOINDER CONSENT AND AGREEMENT

Pursuant to this Joinder Consent and Agreement, dated as of , 20 , the undersigned hereby consents to and agrees to be bound by all of the terms and provisions of the Intercreditor Agreement, dated as of June 3, 2013, among CITIBANK, N.A., as Pari Passu Collateral Agent, Revolving Credit Agreement Agent, Term Loan Agent, DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee, PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* and each other Grantor (as defined therein) and party signatory thereto from time to time (as the same may be amended, restated, supplemented, waived or otherwise modified from time to time in accordance with its terms, the "*Intercreditor Agreement*"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

]		
Ву:			
Name:			
Citle:			

EXHIBIT A

[FORM OF] JOINDER AGREEMENT TO INTERCREDITOR AGREEMENT

Reference is made to the Intercreditor Agreement, dated as of June 3, 2013, among CITIBANK, N.A., as Pari Passu Collateral Agent, Revolving Credit Agreement Agent, Term Loan Agent, DEUTSCHE BANK TRUST COMPANY AMERICAS, as Trustee, PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a *société anonyme* and each other Grantor (as defined therein) and party signatory thereto from time to time (as the same may be amended, restated, supplemented, waived or otherwise modified from time to time in accordance with its terms, the "*Intercreditor Agreement*"). Capitalized terms used but not defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

This Joinder Agreement, dated as of , 20 (this "Joinder Agreement"), is being delivered pursuant to Section 4.12 of the Intercreditor Agreement in connection with the incurrence of the indebtedness for which the undersigned is acting as agent being entitled to the benefits of being Pari Passu Obligations under the Intercreditor Agreement.

- 1. Joinder . The undersigned, , a (the "New Authorized Representative") as [trustee, administrative agent] under that certain [describe new Pari Passu Obligations] (the "Series of Pari Passu Obligations") hereby agrees to become party as an Authorized Representative and a Pari Passu Secured Party under the Intercreditor Agreement for all purposes thereof on the terms set forth therein, and to be bound by the terms, conditions and provisions of the Intercreditor Agreement as fully as if the undersigned had been an original signatory thereto. Upon the acknowledgment by the Company of this Joinder, the [describe the document governing such new Pari Passu Obligations] will be designated as [an Other Pari Passu Agreement] [a Refinancing of the [Term Loan Obligations][Notes Obligations] [Revolving Credit Agreement Obligations]].
- 2. **Lien Sharing and Priority Confirmation**. The undersigned New Authorized Representative, on behalf of itself and each Person to which such Series of Pari Passu Obligations are owed from time to time (together with the New Authorized Representative, the "**New Pari Passu Secured Parties**"), hereby agrees, for the enforceable benefit of all existing and future Authorized Representative and each existing and future other Pari Passu Secured Party, that:
 - (a) all Pari Passu Obligations will be and are secured equally and ratably by all Liens granted to the Pari Passu Collateral Agent on the Pari Passu Collateral, for the benefit of the Pari Passu Secured Parties, which are at any time granted by any Grantor to secure any Pari Passu Obligations, and that all Liens on the Pari Passu Collateral granted pursuant to the Collateral Agreements will be enforceable by the Pari Passu Collateral Agent for the benefit of all Pari Passu Secured Parties equally and ratably, in each case, pursuant to and subject to the terms of the Intercreditor Agreement;

- (b) the New Authorized Representative and each other New Pari Passu Secured Party is bound by the terms, conditions and provisions of the Intercreditor Agreement and the Collateral Agreements, including, without limitation, the provisions relating to the ranking of Liens and the order of application of proceeds from the enforcement of Liens; and
- (c) the New Authorized Representative shall perform its obligations under the Intercreditor Agreement and the Collateral Agreements.
- 3. Appointment of Pari Passu Collateral Agent . The New Authorized Representative, on behalf of itself and the New Pari Passu Secured Parties, hereby (a) irrevocably appoints Citibank, N.A., as Pari Passu Collateral Agent for purposes of the Intercreditor Agreement and the Collateral Agreements, (b) irrevocably authorizes each of the Pari Passu Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Pari Passu Collateral Agent in the Intercreditor Agreement and the Collateral Agreements, together with such actions and powers as are reasonably incidental thereto, and authorizes the Pari Passu Collateral Agent to execute any Collateral Agreements on behalf of all Pari Passu Secured Parties and to take such other actions to maintain and preserve the security interests granted pursuant to any Collateral Agreements, and (c) acknowledges that it has received and reviewed the Intercreditor Agreement and the Collateral Agreements and hereby agrees to be bound by the terms and provisions thereof. The New Authorized Representative, on behalf of the New Pari Passu Secured Parties, and the Pari Passu Collateral Agent, on behalf of the existing Pari Passu Secured Parties, each hereby acknowledges and agrees that the Pari Passu Collateral Agent in its capacity as such shall be agent on behalf of the New Authorized Representative and on behalf of all other Pari Passu Secured Parties in accordance with the terms and provisions of the Intercreditor Agreement and the Collateral Agreements.
- 4. Address of Additional Authorized Representative. The address of the New Authorized Representative in respect of the Pari Passu Obligations for purposes of all notices and other communications hereunder and under the Intercreditor Agreement is Attention of its (Facsimile No. is , E-mail address is).
- 5. *Counterparts* . This Joinder Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Joinder Agreement by facsimile or PDF via electronic transmission shall be as effective as delivery of a manually signed counterpart of this Joinder Agreement. Signatures of the parties hereto transmitted by facsimile or PDF via electronic transmission shall be deemed to be their original signatures for all purposes.
- 6. Governing Law. THIS JOINDER AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK.
- 7. *Miscellaneous*. All of the provisions of Article IV of the Intercreditor Agreement shall apply with like effect to this Joinder Agreement.

[Remainder of Page Intentionally Left Blank; Signature Pages Follow]

Exhibit A-3

IN WITNESS WHEREOF, the New Authorized Representative authorized representative, and the Company has caused the same to be acce above written.	
	[NEW AUTHORIZED REPRESENTATIVE]
	Ву:
	Name: Title:
Acknowledged and agreed:	
PACIFIC DRILLING S.A., a Luxembourg corporation under the form of a <i>société anonyme</i>	
By:	

Signature Page to Joinder to Intercreditor Agreement (Pacific Drilling S.A.)

Name: Title:

The Pari Passu Collateral Agent acknowledges receipt of this Joinder Agree respect to the Series of Pari Passu Obligations specified herein in accordance with the Collateral Agreements.		•
	Dated:	, 20
	CITIBANK,	N.A., as Pari Passu Collateral Agent
	By: Name: Title:	