



# **Prospectus**

## **Securities Note**

**for**

**FRN EXMAR Netherlands BV Senior Unsecured Bond Issue 2014/2017**

Joint Lead Managers:



Oslo, 22 June 2015

### **Important information\***

The Securities Note has been prepared in connection with listing of the securities at Oslo Børs. The Norwegian FSA has controlled and approved the Securities Note pursuant to Section 7-7 of the Norwegian Securities Trading Act. Finanstilsynet has not controlled and approved the accuracy or completeness of the information given in the Securities Note. Financial supervision and approval relates solely to the Company has included descriptions according to a pre-defined list of content requirements. Finanstilsynet has not undertaken any form of control or approval of corporate matters described in or otherwise covered by the Securities Note.

New information that is significant for the Borrower, the Guarantor or any subsidiaries may be disclosed after the Securities Note has been made public, but prior to listing of the Loan. Such information will be published as a supplement to the Securities Note pursuant to Section 7-15 of the Norwegian Securities Trading Act. On no account must the publication or the disclosure of the Securities Note give the impression that the information herein is complete or correct on a given date after the date on the Securities Note, or that the business activities of the Borrower, the Guarantor or any subsidiaries may not have been changed.

Only the Borrower and the Joint Lead Managers are entitled to procure information about conditions described in the Securities Note. Information procured by any other person is of no relevance in relation to the Securities Note and cannot be relied on.

Unless otherwise stated, the Securities Note is subject to Norwegian law. In the event of any dispute regarding the Securities Note, Norwegian law will apply.

In certain jurisdictions, the distribution of the Securities Note may be limited by law, for example in the United States of America or in the United Kingdom. Approval of the Securities Note by the Norwegian FSA implies that the Note may be used in any EEA country. No other measures have been taken to obtain authorisation to distribute the Securities Note in any jurisdiction where such action is required. Persons that receive the Securities Note are ordered by the Borrower and the Joint Lead Managers to obtain information on and comply with such restrictions.

This Securities Note is not an offer to sell or a request to buy bonds.

The Securities Note together with the Registration Document dated 22 June 2015 constitutes the Prospectus.

The content of the Securities Note does not constitute legal, financial or tax advice and bond owners should seek legal, financial and/or tax advice.

Contact the Borrower or the Joint Lead Managers to receive copies of the Securities Note.

#### *Factors which are material for the purpose of assessing the market risks associated with Bond:*

The Bonds may not be a suitable investment for all investors. Each potential investor in the Bonds must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- (i) have sufficient knowledge and experience to make a meaningful evaluation of the Bonds, the merits and risks of investing in the Bonds and the information contained or incorporated by reference in this Securities Note and/or Registration Document or any applicable supplement;
- (ii) have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Bonds and the impact the Bonds will have on its overall investment portfolio;
- (iii) have sufficient financial resources and liquidity to bear all of the risks of an investment in the Bonds, including where the currency for principal or interest payments is different from the potential investor's currency;
- (iv) understand thoroughly the terms of the Bonds and be familiar with the behaviour of the financial markets; and
- (v) be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

\*The capitalised words in the section "Important Information" are defined in Chapter 3: "Detailed information about the securities".

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# 1 Risk Factors

The Issuer believes that the factors described below represent the principal market risks inherent in investing in the Bonds. Occurrence of any risk factors described below may cause inability of the Issuer or the Guarantor to pay interest, principal or other amounts on or in connection with the Bonds. Prospective investors should also read the detailed information set out in the Registration Document dated 22 June 2015 and reach their own views prior to making any investment decision.

## **Risk related to the market in general**

All investments in interest bearing securities have risk associated with such investment. The risk is related to the general volatility in the market for such securities, varying liquidity in a single bond issue as well as company specific risk factors. There are five main risk factors that sum up the investors' total risk exposure when investing in interest bearing securities: liquidity risk, interest rate risk, settlement risk, credit risk and market risk (both in general and issuer specific).

Liquidity risk is the risk that a party interested in trading bonds cannot do it because nobody in the market wants to trade the bonds. Missing demand for the bonds may result in a loss for the bondholder.

Interest rate risk is the risk that results from the variability of the NIBOR interest rate. The coupon payments, which depend on the NIBOR interest rate and the Margin, will vary in accordance with the variability of the NIBOR interest rate. The interest rate risk related to this bond issue will be limited, since the coupon rate will be adjusted quarterly according to the change in the reference interest rate (NIBOR 3 months) over the 3 year tenor. The primary price risk for a floating rate bond issue will be related to the market view of the correct trading level for the credit spread related to the bond issue at a certain time during the tenor, compared with the credit margin the bond issue is carrying. A possible increase in the credit spread trading level relative to the coupon defined credit margin may relate to general changes in the market conditions and/or Issuer specific circumstances. However, under normal market circumstances the anticipated tradable credit spread will fall as the duration of the bond issue becomes shorter. In general, the price of bonds will fall when the credit spread in the market increases, and conversely the bond price will increase when the market spread decreases.

Settlement risk is the risk that the settlement of bonds does not take place as agreed. The settlement risk consists of the failure to pay or the failure to deliver the bonds.

Credit risk is the risk that the Borrower or the Guarantor fails to make the required payments under the Loan (either principal or interest).

Market risk is the risk that the value of the bonds will decrease due to the change in value of the market risk factors. The price of a single bond issue will fluctuate in accordance with the interest rate and credit markets in general, the market view of the credit risk of that particular bond issue, and the liquidity of this bond issue in the market. In spite of an underlying positive development in the Issuers business activities, the price of a bond may fall independent of this fact. Bond issues with a relatively short tenor and a floating rate coupon rate do however in general carry a lower price risk compared to bonds with a longer tenor and/or with a fixed coupon rate.

No market-maker agreement is entered into in relation to this bond issue, and the liquidity of bonds will at all times depend on the market participants view of the credit quality of the Issuer as well as established and available credit lines.

## **Risk related to Bonds in general**

### ***Modification and Waiver***

The conditions of the Bonds contain provisions for calling meetings of bondholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all bondholders including bondholders who did not attend and vote at the relevant meeting and bondholders who voted in a manner contrary to the majority.

The conditions of the Bonds also provide that the Bond Trustee may:

Except as provided for in the Bond Agreement clause 18.1.e), reach decisions binding for all Bondholders concerning the Bond Agreement, including amendments to the Bond Agreement and waivers or modifications of certain provisions, which in the opinion of the Bond Trustee, do not have a Material Adverse Effect on the rights or interests of the Bondholders pursuant to the Bond Agreement.

Except as provided for in the Bond Agreement clause 18.1.e), reach decisions binding for all Bondholders in circumstances other than those mentioned in the Bond Agreement clause 18.1.c) provided prior notification has been made to the Bondholders. The Bond Trustee may not reach a decision binding for all Bondholders in the event that any Bondholder submits a written protest against the proposal within a deadline set forth in the Bondholder notification.

Not reach decisions pursuant to the Bond Agreement clauses 18.1.c) or 18.1.d) for matters set forth in the Bond Agreement clause 17.3.e) except to rectify obvious incorrectness, vagueness or incompleteness.

Not adopt resolutions which may give certain Bondholders or others an unreasonable advantage at the expense of other Bondholders.

## 2 Persons Responsible

### ***2.1 Persons responsible for the information***

Persons responsible for the information given in the Securities Note are:  
Exmar Netherlands BV, De Hees 9, 5975 NL, Sevenum, Nederland.

### ***2.2 Declaration by persons responsible***

**Responsibility statement:**

Exmar Netherlands BV confirms, taken all reasonable care to ensure that such is the case, that the information contained in the prospectus is, to the best of its knowledge, in accordance with the facts and contains no omission likely to affect its import.

Sevenum, 22 June 2015

Exmar Netherlands BV

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### 3 Detailed information about the securities

ISIN code:	NO 0010714512
The Loan/The Reference Name/The Bonds:	"FRN EXMAR Netherlands BV Senior Unsecured Bond Issue 2014/2017".
Borrower/Issuer:	EXMAR Netherlands BV, a company existing under the laws of the Netherlands with registration number NOL 852271517
Parent/Guarantor:	EXMAR NV, a company existing under the laws of the Kingdom of Belgium with registration number 0860 409 202
Group:	Means the Parent and all its (directly or indirectly owned) Subsidiaries from time to time, and a "Group Company" means the Parent or any of its Subsidiaries.
Security Type:	Bond issue with floating rate.
Borrowing Limit:	NOK 1,000,000,000
Borrowing Amount:	NOK 1,000,000,000. First tranche NOK 700,000,000 Second tranche NOK 300,000,000
Denomination – Each Bond:	NOK 1,000,000 - each and ranking pari passu among themselves
Securities Form:	The Bonds are electronic registered in book-entry form with the Securities Depository.
Disbursement/Settlement/Issue Date:	7 July 2014.
Interest Bearing From and Including:	Disbursement/Settlement/Issue Date.
Interest Bearing To:	Maturity.
Maturity:	7 July 2017.
Reference Rate:	NIBOR 3 months.
Margin:	4.50 % p.a.
Coupon Rate:	NIBOR + Margin, equal to 5.97 % p.a. for the interest period ending on 7 July 2015.
Day Count Fraction - Coupon:	Act/360 – in arrears.
Business Day Convention:	If the relevant Interest Payment Date falls on a day that is not a Business Day, that date will be the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day ( <i>Modified Following Business Day Convention</i> ).
Interest Rate Determination Date:	3 July 2014, and thereafter two Business Days prior to each Interest Payment Day.
Interest Rate Adjustment Date:	With effect from Interest Payment Date.
Interest Payment Date:	Each 7 January, 7 April, 7 July and 7 October in each year and the Maturity Date. Any adjustment will be made according to the Business Day Convention.  The next Interest Payment Date being 7 July 2015.
#Days first term:	92 days.

Issue Price:	100 % (par value).
Yield:	Dependent on the market price. Yield for the Interest Period (7 April 2014 – 7 July 2015) is 6.106 % p.a. assuming a price of 100 %.
Business Day:	Any day on which commercial banks are open for general business and can settle foreign currency transactions in Oslo.
Put option:	<p><i>Change of control</i></p> <p>Upon the occurrence of a Change of Control Event, each Bondholder shall have a right to require that the Issuer redeems its Bonds (a “<b>Put Option</b>”) at a price of 101% of par plus accrued interest.</p> <p>The Put Option must be exercised within 30 calendar days after the Parent has given notification to the Bond Trustee of a Change of Control Event. Such notification shall be given by the Parent as soon as possible after a Change of Control Event has taken place.</p> <p>The Put Option may be exercised by each Bondholder by giving written notice of the request to its Account Manager. The Account Manager shall notify the Paying Agent of the redemption request. The settlement date of the Put Option shall be within 60 calendar days following notice of the Change of Control Event.</p> <p>On the settlement date of the Put Option, the Issuer shall pay to each of the Bondholders holding Bonds to be redeemed, the principal amount of each such Bond (including any premium pursuant to the Bond Agreement clause 10.2.(a) and any unpaid interest accrued up to (but not including) the settlement date.</p>
Change of Control Event:	Means if (i) any person or group of persons under the same Decisive Influence, or two or more persons acting in concert (other than Saverex NV or any indirectly or directly owned Subsidiary of Saverex NV) obtains Decisive Influence over the Parent; or (ii) a de-listing of the Parent's shares from NYSE Euronext Brussels (or any other recognized stock exchange) occurs.
Decisive Influence:	<p>Means a person having, as a result of an agreement or through the ownership of shares or Interests in another person:</p> <ul style="list-style-type: none"><li>a) a majority of the voting rights in that other person; or</li><li>b) a right to elect or remove a majority of the members of the board of directors of that other person.</li></ul> <p>When determining the relevant person's number of voting rights or right to elect and remove members of the board of directors in the other person, rights in the other person held directly or indirectly by the parent company of the relevant person shall be included.</p>
Saverex NV:	Means Saverex NV, a company existing under the laws of the Kingdom of Belgium with registration number 0436.287.291.
Guarantee:	<p>The Guarantor hereby, irrevocably and unconditionally:</p> <ul style="list-style-type: none"><li>a) guarantees to the Bond Trustee (on behalf of the Bondholders), as for its own debt and not merely as surety (Nw: selvskyldnerkausion) the due and punctual performance by the Issuer of all its obligations under the Finance Documents and accept that the Bond Trustee may make a demand to the Guarantor for immediate payment of any due and unpaid amount (interest, principal or other) under any Finance Document; and</li><li>b) undertakes with the Bond Trustee (on behalf of the</li></ul>



Bondholders) that, whenever the Issuer does not pay any amount when due under or in connection with any Finance Document, the Guarantor shall, on the Bond Trustee's first written demand and in no event any later than five (5) Business Days after the Guarantor's receipt of such demand, pay that amount to the Bond Trustee or as it directs as if it were the principal obligor in respect of that amount.

Obligors:	Means the Issuer and the Parent, each an Obligor.
Subsidiaries:	Means an entity over which the Parent directly or indirectly has a Decisive Influence.
Finance Documents:	Means (i) the Bond Agreement, (ii) the agreement between the Bond Trustee and the Issuer referred to in the Bond Agreement clause 15.2, and (iii) any other document the Issuer and the Trustee designate as a Finance Document.
Security:	Means any encumbrance, mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
Amortisation:	The bonds will run without installments and be repaid in full at Maturity at par.
Redemption:	Matured interest and matured principal will be credited to each Bondholder directly from the Securities Registry. Claims for interest and principal shall be limited in time pursuant to the Norwegian Act relating to the Limitation Period Claims of May 18 1979 no 18, p.t. 3 years for interest rates and 10 years for principal.
Status of the Loan:	The Bonds shall constitute senior unsecured debt obligations of the Issuer and contingent senior unsecured debt obligations in form of the Guarantee for the Parent. The Bonds shall rank at least pari passu with all other unsecured senior obligations of the Issuer (save for such claims which are preferred by bankruptcy, insolvency, liquidation or other similar laws of general application) and shall rank ahead of subordinated capital.
Undertakings:	Each of the Obligors (as applicable) undertakes from the date of the Bond Agreement and until such time that no amounts are outstanding under the Bond Agreement or any other Finance Document, to the Bond Trustee, as further set out in this Clause 14. In the Bond Agreement, including but not limited to:

## **1. General covenants**

### **Mergers**

The Obligors shall not, and shall ensure that no other Group Company shall, carry out any merger or other business combination or corporate reorganization involving consolidating the assets and obligations of any of the Obligors or such Group Company with any other company or entity not being a member of the Group if such transaction would have a Material Adverse Effect.

### **De-mergers**

The Obligors shall not, and shall ensure that no other Group Company shall, carry out any de-merger or other corporate reorganization involving splitting any of the Obligors or such Group Company into two or more separate companies or entities, if such transaction would have a Material Adverse Effect.

### **Continuation of business**

The Obligors shall not, and shall ensure that no other Group Company shall, cease to carry on its respective business, if such

cessation would have a Material Adverse Effect. The Parent shall procure that no material change is made to the general nature or scope of the business of the Group from that carried on at the date of this Bond Agreement, or as contemplated by this Bond Agreement.

#### **Insurances**

Each Obligor shall, and the Parent shall procure that each Group Company will, maintain, with financially sound and reputable insurance companies, funds or underwriters, adequate insurance- or captive arrangements with respect to its vessels, other assets, equipment and business against such liabilities, casualties and contingencies and of such types and in such amounts as are consistent with customary and prudent business practice for each type of vessel or asset and in their relevant jurisdictions and areas of operation.

#### **Reporting**

Each Obligor shall:

- a) without being requested to do so, promptly inform the Bond Trustee in writing of any Event of Default, any event or circumstance which could reasonably be expected to lead to an Event of Default and any other event which could reasonably be expected to have a Material Adverse Effect;
- b) without being requested to do so, inform the Bond Trustee in writing if any of the Obligors agrees to sell or dispose of all or a substantial part of its assets or operations, or change the nature of its business;
- c) without being requested to do so, prepare Financial Statements and make them available on its website in the English language (alternatively by arranging for publication at Stamdata) as soon as they become available, and not later than 120 days after the end of the financial year and not later than 90 days after each second quarter;
- d) without being requested to do so, prepare Interim Accounts and make them available on its website in the English language (alternatively by arranging for publication on Stamdata) as soon as they become available, and not later than 60 days after the end of each first and third quarter;
- e) at the request of the Bond Trustee, report the balance of the Issuer's Bonds;
- f) without being requested to do so, send the Bond Trustee copies of any statutory notifications of the Obligors, including but not limited to connection with mergers, de-mergers and reduction of each Obligor's share capital or equity;
- g) if the Bonds are listed on an Exchange, without being requested to do so, send a copy to the Bond Trustee of its notices to the Exchange;
- h) if any of the Obligors and/or the Bonds are rated, without being requested to do so, inform the Bond Trustee of the Obligors' and/or the rating of the Bond Issue, and any changes to such rating;
- i) without being requested to do so, inform the Bond Trustee of changes in the registration of the Bonds in the Securities Depository; and

- j) within a reasonable time, provide such information about each Obligor's business, assets and financial condition as the Bond Trustee may reasonably request.

**Arm's length transactions**

The Obligors shall not engage in, or permit any other Group Company to engage in, directly or indirectly, any transaction with any party (without limitation, the purchase, sale or exchange of assets or the rendering of any service), except in the ordinary course of business and pursuant to the reasonable requirement of any of the Obligor's or such Group Company's business and upon fair and reasonable terms that are no less favorable to any of the Obligor's or such Group Company, as the case may be, than those which might be obtained in an arm's length transaction at the time.

**Pari Passu ranking**

Each Obligor shall ensure that its obligations under the Bond Agreement and any other Finance Document shall at all times rank at least pari passu as set out in Clause 8.1 in the Bond Agreement.

**Corporate status**

No Obligor shall change its type of organization or jurisdiction of incorporation.]

**Compliance with laws**

Each Obligor shall, and shall ensure that all other Group Companies shall, carry on its business in accordance with acknowledged, careful and sound practices in all aspects and comply in all respects with all laws and regulations it or they may be subject to from time to time. Breach of these obligations shall be regarded as non-compliance only if such breach would have a Material Adverse Effect.

**2. Special covenants**

**Duty of loyalty**

Unless otherwise specified or complied herein, each Obligor shall, and shall ensure that any Group Company shall, use its best endeavours (hereunder by voting rights in any capacity and/or as General Partner) to ensure compliance with the Obligor's undertakings as described in Clause 14.2-14.11 in the Bond Agreement in any JV Company.

**Parent's minimum ownership of the Issuer**

The Parent shall at all times maintain a 100% direct or indirect ownership of the Issuer.

**Dividends restriction**

The Parent shall not (i) declare or make any dividend payment or distribution, whether in cash or in kind, (ii) repurchase any of its shares or undertake other similar transactions (including, but not limited to total return swaps related to shares in the Issuer), or (iii) grant any loans or make other distributions or transactions constituting a transfer of value to its shareholders (item (i)-(iii) collectively referred to as "**Distributions**") that in aggregate exceed, during any calendar year, the higher of (i) 50% of the Parent's consolidated net profit after taxes (based on Proportional Consolidation) based on the audited annual accounts for the previous financial year and (ii) EUR 0.30 per share (based on the number of shares as of the date of the Bond Agreement and to be adjusted for stock splits, mergers and/or new shares issues), and always provided that no Event of Default has occurred and its continuing or will occur as a result of such Distribution.

Notwithstanding the above, the Parent may take interim

Distributions during any calendar year based on preliminary accounts for that financial year, however provided that the aggregate Distribution (interim and otherwise) for any financial year does not exceed the higher of alternative (i) and (ii) as described above.

Any un-utilized portion of the permitted Distribution pursuant to the above may not be carried forward,

**Subsidiaries' and/or JV Companies' distribution**

The Parent shall not permit any Subsidiary or JV Company to create or permit to exist any contractual obligation or encumbrance (except to the extent required to comply with customary cash waterfall provisions, financial covenants or other similar restrictions in financing agreements) restricting the right to:

- (i) pay dividends or make other distributions to its shareholders;
- (ii) service any Financial Indebtedness to the Parent;
- (iii) make any loans to the Parent; or
- (iv) transfer any of its assets and properties to the Parent;

if the creation of such contractual obligation is reasonably likely to prevent the Issuer and the Parent from complying with its obligations under the Bond Agreement.

**Disposal of assets/business**

The Obligors shall not, and shall ensure that no other Group Company shall, sell or otherwise dispose of all or a substantial part of the Group's assets or operation unless:

- (i) the transaction is carried out at fair market value, on terms and conditions customary for such transactions; and
- (ii) such transactions does not have a Material Adverse Effect.

Notwithstanding the above, or any other provisions of the Bond Agreement, the Parent shall be entitled to transfer assets to an MLP where the Parent controls directly or indirectly 100% of the voting rights and equity of the General Partner and at least 25% of the equity of the MLP, provided that any such transaction is made on fair market terms and does not have a Material Adverse Effect.

**Financial Indebtedness restrictions**

The Obligors shall not, and shall ensure that no other Group Company shall, incur, create or permit to subsist any Financial Indebtedness (including guarantees) other than the Permitted Financial Indebtedness.]

**Negative pledge**

The Obligors shall not, and shall ensure that no other Group Company shall, create, permit to subsist or allow to exist any Security over any of its present or future respective assets or its revenues, other than the Permitted Security.

**Financial support restrictions**

The Obligors shall not, and shall ensure that no other Group Company shall, grant any loans, guarantees or other financial assistance (including, but not limited to granting of security) ("Financial Support") to or for the benefit of any third party, other Group Companies or JV Companies other than by way of:

- (i) guarantees for Permitted Financial Indebtedness in any Group Company;
- (ii) guarantees for Financial Indebtedness in any JV Company;

- (iii) equity contribution and/or other subordinated capital for customary capitalization of any JV Company;
- (iv) a working capital facility made available by the Parent or any Group Company to an MLP, in the maximum aggregate amount of USD 25,000,000; and or
- (v) Permitted Security

#### **Subordination of intra-group loans to the Parent**

The Parent undertakes that any intra-group loans and/or shareholder loans to the Parent ("**Subordinated Loans**") are subject to the following conditions: (i) any amortization and maturity is after the Final Maturity Date, (ii) no Security is or shall be provided, (iii) no payment of interest prior to the Final Maturity Date and (iv) no repayment to or enforcement by the lender(s) thereunder prior to the full and irrevocable repayment of the Bonds.

#### **Cross default**

If for any Group Company or any JV Company:

- a) any Financial indebtedness is not paid when due nor within any originally applicable grace period;
- b) any Financial Indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
- c) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor as a result of an event of default (however described); or
- d) any creditor becomes entitled to declare any Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described),

always provided that paragraphs (a) to (d) above shall only apply to any single Financial Indebtedness in excess of USD 10 million or the equivalent thereof in other currencies.

### **3. Financial covenants:**

During the term of the Bond Issue, the Parent shall comply with the following financial covenants:

#### **(a) Liquidity:**

The Parent shall maintain Free Cash of USD 25,000,000;

#### **(b) Equity Ratio**

The Parent shall maintain an Equity Ratio of minimum 25 %;

#### **(c) Minimum Equity**

The Parent shall maintain an Equity of minimum USD 300,000,000;

#### **(d) Interest Coverage Ratio**

The Parent shall maintain an EBITDA to Net Interest Expense ratio of minimum 2.00:1; and

#### **(e) Minimum Working Capital**

The Parent shall maintain a positive Working Capital.

The Parent undertakes to comply with the above financial covenants at all times, such compliance to be measured on each Quarter Date and certified by the Parent in connection with delivery of its financial statements and interim accounts through the delivery of the Compliance Certificate in Attachment 1 in the

Bond Agreement to the Bond Trustee.

All financial covenants shall be calculated on a consolidated basis for the Group, and (notwithstanding anything to the contrary in the Bond Agreement) all JV Companies shall be included in the calculation based on Proportional Consolidation.

**Definitions:**

**Current Assets** means the book value of the Group's assets which are treated as current liabilities in accordance with IFRS, less the book value of any Restricted Cash.

**Current Liabilities** means the book value of the Group's liabilities which are treated as current liabilities in accordance with IFRS, excluding the current portion of long term debt.

**EBITDA** means the Group's earnings before interest, taxes, depreciation and amortization (to be calculated on a 12-month rolling basis).

**Equity** means the book value of the Group's total equity in accordance with IFRS.

**Equity ratio** means the ratio of Equity to Total Assets.

**Event of Default** means the occurrence of an event or circumstance specified in Clauses 16.1 -16.10 in the Bond Agreement.

**Financial Indebtedness** means any indebtedness for or in respect of:

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

letter of credit or any other instrument issued by a bank or financial institution in respect of any underlying liability; and

- j) (without double counting) any guarantee, indemnity or similar assurance against financial loss of any person in respect of any of the items referred to above.

**Free Cash** means the Group's book value of holdings which at all times are available for the Parent of any;

- (i) cash in hand or amounts standing to the credit of any current and/or on deposit accounts, excluding pledged and/or blocked cash and cash equivalents;
- (ii) time deposits and certificates of deposit issued, and bills of exchange; and
- (iii) undrawn credit lines with minimum six months to maturity,

in each case, to which any Group Company is beneficially entitled at that time and to which the Parent has free and unrestricted access.

**General Partner** means the general partner of a MLP and which manages and controls the operations and the activities of such MLP.

**IFRS** means International Financial Reporting Standards as adopted by the European Union and refers to the international accounting standards within the meaning of IAS Regulation 1606/2002.

**JV Company** means any current and/or future company or partnership in which the Parent (directly or indirectly) holds an ownership interest incorporated or established for the purpose of directly or indirectly owning, developing and/or constructing any maritime operating vessel or any other operation which is substantially within the business that the Group is conducting at the date of the Bond Agreement, and which is not a Subsidiary of the Parent. Following a Qualifying MLP Transaction the term JV Company includes the MLP.

**Material Adverse Effect** means an event or circumstance which has a material adverse effect on: (a) the business, financial condition or operations of the Parent and/or the Group taken as a whole, (b) the Issuer's or the Parent's ability to perform and comply with its obligations under the Bond Agreement; or (c) the validity or enforceability of the Finance Documents. For the avoidance of doubt, the term Material Adverse Effect includes, without limitation, any material adverse effect on the Parent or the Group taken as a whole, as a result of any material adverse effect in any JV Company.

**MLP** means any future "master limited partnership" whose limited partnership shares are traded on a regulated market place or a securities exchange established by a sponsor and which is managed and controlled by a General Partner with a number of limited partners as investors in which the profit is paid to the limited partners based on "available cash" with an aim of maximizing the MLP's distributions, but so that the actual distributions are based on the General Partner's discretion.

**Net Interest Expenses** means the aggregate gross cash interest costs of the Group related to the Group's interest-bearing debt less the aggregate gross cash interest income of the Group (to be calculated on a 12-month rolling basis).

**Permitted Financial Indebtedness** means:

- a) the Bond Issue;
- b) existing secured or unsecured Financial Indebtedness provided by commercial banks and/or export credit agencies incurred by the Issuer or any Group Company prior to the date of the Bond Agreement for the purpose of financing existing vessels or assets;
- c) future senior secured or unsecured Financial Indebtedness provided by commercial banks and/or export credit agencies incurred by the Issuer or any Group Company on marketable terms and conditions with the purpose of financing the acquisition of new vessels or assets (newbuildings and/or second-hand vessels) (or acquisition of shares in entities owning one or more newbuildings or second-hand vessels or assets);
- d) any unsecured bonds issued by the Issuer and the Parent with (i) no amortization and with maturity after the Final Maturity Date of the Bonds, (ii) terms not materially more favourable than the Bonds, and (iii) without any Financial Support from any other Group Company.
- e) Financial Indebtedness incurred by any Group Company in the ordinary course of business for working capital purposes and as part of the daily operations of such Group Company;
- f) existing and future bid-, payment- and performance bonds, guarantees and letters of credit incurred by any Group Company in the ordinary course of business;
- g) obligations incurred by any Group Company under any interest rate and currency hedging agreement relating to any Permitted Financial Indebtedness;
- h) unsecured intra-group loans between any Group Companies;
- i) other Subordinated Loans to the Parent;
- j) any Financial Indebtedness not permitted by the preceding paragraphs and incurred by the Group in an aggregate outstanding principal amount which does not at any time exceed USD 10 million (or its equivalent in other currencies); and
- k) any refinancing, amendment or replacement of any of the above from time to time, however always subject to the financial covenants set out in Clause 14.13 in the Bond Agreement.

**Permitted Security** means:

- a) Security granted in relation to Permitted Financial Indebtedness paragraph b), c) and g) above;
- b) Security provided by way of pledge of shares or ownership interests in any Subsidiary and/or JV Company as security for customary financing of such Subsidiary or JV Company's investments in vessels or other assets;



- c) any Security arising by operation of law in the ordinary course of business;
- d) any netting or set-of arrangement entered into by any Group Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of any Group Company (if applicable);
- e) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to any Group Company in the ordinary course of trading and the supplier's standard or usual terms and not arising as a result of any default or omission by any such Group Company; and
- f) Security in an aggregate amount of up to USD 10 million not otherwise permitted above.

**Proportional Consolidation** means the pro-forma consolidation of any JV Company as if such JV Company was a Subsidiary of the Parent but adjusted for any ownership interest not directly or indirectly held by the Parent, such consolidated to include an auditor's opinion for annual and semi-annual account.

**Qualifying MLP Transaction** means a transaction whereby the Parent transfers its ownership in some of its assets to a MLP and the Issuer maintains (directly or indirectly) 100 % ownership in the General Partner.

**Quarter Date** means each 31 March, 30 June, 30 September and 31 December.

**Subordinated Loan** shall have the meaning set out in Clause 12.12(h) in the Bond Agreement.

**Total Assets** means the book value of the Group's total assets treated as an assets in accordance with IFRS.

**Working Capital** means Current Assets less Current Liabilities.

Listing:

At Oslo Børs.

Listing will take place as soon as possible after the prospectus has been approved by the Norwegian FSA. Finanstilsynet has not controlled and approved the accuracy or completeness of the information given in the Securities Note. Financial supervision and approval relates solely to the Company has included descriptions according to a pre-defined list of content requirements. Finanstilsynet has not undertaken any form of control or approval of corporate matters described in or otherwise covered by the Securities Note.

Purpose:

The net proceeds of the Bonds shall be used to finance new investments in LNG infrastructure assets and additional offshore assets and for general corporate purposes.

NIBOR:

Means the interest rate fixed for a defined period on Oslo Børs' webpage at approximately 12.15 Oslo time or, on days on which Oslo Børs has shorter opening hours (New Year's Eve and the Wednesday before Maundy Thursday), the data published at approximately 10.15 a.m. shall be used. In the event that such page is not available, has been removed or changed such that the quoted interest rate no longer represents, in the opinion of the Bond Trustee, a correct expression of the relevant interest rate, an alternative page or other electronic source which in the opinion of the Bond Trustee and the Issuer gives the same interest rate shall be used. If this is not possible, the Bond

Trustee shall calculate the relevant interest rate based on comparable quotes from major banks in Oslo. If any such rate is below zero, NIBOR will be deemed to be zero.

Approvals:

The Bonds were issued in accordance with the approval of the Exmar Netherlands BV Board of Directors dated 4 October 2014.

The prospectus will be sent to the Norwegian FSA and Oslo Børs ASA for control in relation to a listing application of the bonds.

Finanstilsynet has not controlled and approved the accuracy or completeness of the information given in the Securities Note. Financial supervision and approval relates solely to the Company has included descriptions according to a pre-defined list of content requirements. Finanstilsynet has not undertaken any form of control or approval of corporate matters described in or otherwise covered by the Securities Note.

Finanstilsynet has approved the Prospectus by e-mail dated 23 June 2015.

Bond Agreement:

The Bond Agreement has been entered into by the Borrower and the Bond Trustee. The Bond Agreement regulates the Bondholder's rights and obligations with respect to the bonds. The Bond Trustee enters into the Bond Agreement on behalf of the Bondholders and is granted authority to act on behalf of the Bondholders to the extent provided for in the Bond Agreement. When bonds are subscribed / purchased, the Bondholder has accepted the Bond Agreement and is bound by the terms of the Bond Agreement.

The Bond Agreement is available through the Bond Trustee, the Joint Lead Managers or from the Issuer and the Parent.

Bondholders' meeting:

At the Bondholders' meeting each Bondholder has one vote for each bond he owns.

In order to form a quorum, at least half (1/2) of the aggregate principal amount of the Voting Bonds must be represented at the Bondholders' meeting. See also clause 17.4 in the Bond Agreement.

Resolutions shall be passed by simple majority of the votes at the Bondholders' Meeting, except as set forth below.

In the following matters, approval of at least 2/3 of the votes is required:

- a) amendment of the terms of the Bond Agreement regarding the interest rate, the tenor, redemption price and other terms and conditions directly affecting the cash flow of the bonds;
- b) transfer of rights and obligations of the Bond Agreement to another issuer, or
- c) change of Bond Trustee.

(For more details, see also Bond agreement clause 17)

Availability of the Documentation:

[www.exmar.be](http://www.exmar.be), [www.dnb.no](http://www.dnb.no) and at DNB Bank ASA, DNB Markets, Dronning Eufemias gate 30, 0191 Oslo.

Bond Trustee:

Nordic Trustee ASA, P.O. Box 1470 Vika, 0116 Oslo, Norway.

The Bond Trustee shall monitor the compliance by the Issuer of its obligations under the Bond agreement and applicable laws and regulations which are relevant to the terms of the Bond agreement, including supervision of timely and correct payment of principal or interest, inform the Bondholders, the Paying Agent

and the Exchange of relevant information which is obtained and received in its capacity as Bond Trustee (however, this shall not restrict the Bond Trustee from discussing matters of confidentiality with the Issuer), arrange Bondholders' meetings, and make the decisions and implement the measures resolved pursuant to the Bond agreement. The Bond Trustee is not obligated to assess the Issuer's financial situation beyond what is directly set forth in the Bond agreement.

(For more details, see also the Bond Agreement clause 18)

Joint Lead Managers:

DNB Markets, Dronning Eufemias gt. 30, N-0021 Oslo, Norway and  
Pareto Securities AS, Dronning Mauds gt. 3, N-0115 Oslo, Norway.

Paying Agent:

DNB Bank ASA, Verdpapirservice, Dronning Eufemias gt. 30, N-0021 Oslo, Norway. The Paying Agent is in charge of keeping the records in the Securities Depository.

Calculation Agent:

The Bond Trustee.

Securities Depository:

The Securities depository in which the bonds are registered, in accordance with the Norwegian Act of 2002 no. 64 regarding Securities depository.

On Disbursement Date the Securities Depository is the Norwegian Central Securities Depository ("VPS"), P.O. Box 4, 0051 OSLO.

US Securities Act:

The Bonds have not been registered under the US Securities Act, the Issuer (Parent) is under no obligation to arrange for registration of the Bonds under the US Securities Act.

Purchase and transfer of bonds:

Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable from time to time under local laws to which a Bondholder may be subject (due e.g. to its nationality, its residency, its registered address, its place(s) for doing business). Each Bondholder must ensure compliance with applicable local laws and regulations at its own cost and expense.

Notwithstanding the above, the Bondholder which has purchased the Bonds in breach of applicable mandatory restrictions may nevertheless utilize its rights (including, but not limited to rights) under the Bond Agreement.

Market-Making:

There is no market-making agreement entered into in connection with the Bond Issue.

Estimate of total expenses related to the admission to trading:

Prospectus fee (NFSA) Registration Document NOK 60,000  
Prospectus fee (NFSA) Securities Note NOK 15,600  
Listing fee 2015 (Oslo Børs): NOK 30,713  
Registration fee (Oslo Børs): NOK 5,350

Legislation under which the Securities have been created:

Norwegian law.

Fees and Expenses:

The Borrower shall pay any stamp duty and other public fees in connection with the loan. Any public fees or taxes on sales of Bonds in the secondary market shall be paid by the Bondholders, unless otherwise decided by law or regulation. The Borrower is responsible for withholding any withholding tax imposed by Norwegian law.

Prospectus:

The Registration Document dated 22 June 2015 and this Securities Note dated 22 June 2015.

## 4 Additional Information

The involved persons in the Issuer have no interest, nor conflicting interests that are material to the Bond Issue.

The Issuer has mandated DNB Bank ASA, DNB Markets and Pareto Securities AS as Joint Lead Managers for the issuance of the Loan. The Joint Lead Managers have acted as advisors to the Issuer in relation to the pricing of the Loan.

### **Statement from the Joint Lead Managers:**

DNB Bank ASA, DNB Markets and Pareto Securities AS have assisted the Borrower in preparing the prospectus DNB Bank ASA, DNB Markets and Pareto Securities AS have not verified the information contained herein. Accordingly, no representation, warranty or undertaking, express or implied, is made, and the Joint Lead Managers expressly disclaim any legal or financial liability as to the accuracy or completeness of the information contained in this prospectus or any other information supplied in connection with bonds issued by the Borrower or their distribution. The statements made in this paragraph are without prejudice to the responsibility of the Borrower. Each person receiving this prospectus acknowledges that such person has not relied on the Joint Lead Managers nor on any person affiliated with them in connection with its investigation of the accuracy of such information or its investment decision.

Confidentiality rules and internal rules restricting the exchange of information between different parts of the Joint Lead Managers may prevent employees of the Joint Lead Managers who are preparing this Securities Note from utilizing or being aware of information available to the Joint Lead Managers and/or affiliated companies and which may be relevant to the recipient's decisions.

Oslo (Norway), 22 June 2015

DNB Bank ASA, DNB Markets

Pareto Securities AS

### **Listing of the Loan:**

The Prospectus will be published in Norway. An application for listing at Oslo Børs will be sent as soon as possible after the Issue Date. Each bond is negotiable.

## **5 Appendix 1: Amended and Restated Bond Agreement**

## **6 Appendix 2: Addendum to the Amended and Restated Bond Agreement**

*Execution Version*

Schedule 1

ISIN NO 001 0714512

**AMENDED AND RESTATED BOND AGREEMENT**

between

**EXMAR NETHERLANDS BV**  
as Issuer

**EXMAR NV**  
as Parent and Guarantor

and

**NORDIC TRUSTEE ASA**  
as Bond Trustee

on behalf of

the Bondholders

in the bond issue

**FRN EXMAR Netherlands BV Senior Unsecured Bond Issue 2014/2017**  
originally dated 4 July 2014

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## **Attachment**

1. Compliance Certificate



This agreement has been entered into on 4 July 2014 between:

1. **EXMAR Netherlands BV**, a company existing under the laws of the Netherlands with registration number NOL 852271517, as issuer (the "**Issuer**");
2. **EXMAR NV**, a company existing under the laws of the Kingdom of Belgium with registration number 0860 409 202, as parent and guarantor (the "**Parent**" and/or the "**Guarantor**"); and
3. **NORDIC TRUSTEE ASA**, a company existing under the laws of Norway with registration number 963 342 624, as bond trustee (the "**Bond Trustee**").

## **1 INTERPRETATION**

### **1.1 Definitions**

In this Bond Agreement, the following terms shall have the following meanings:

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

"**Attachment**" means the attachments to this Bond Agreement.

"**Bond Agreement**" means this bond agreement, including any Attachments to it, each as amended from time to time.

"**Bond Issue**" means the bond issue constituted by the Bonds.

"**Bond Reference Rate**" means three months NIBOR.

"**Bondholder**" means a holder of Bond(s), as registered in the Securities Depository, from time to time.

"**Bondholders' Meeting**" means a meeting of Bondholders, as set out in Clause 17.

"**Bonds**" means the debt instruments issued by the Issuer pursuant to this Bond Agreement.

"**Business Day**" means any day on which commercial banks are open for general business and can settle foreign currency transactions in Oslo.

"**Business Day Convention**" means that if the relevant Interest Payment Date originally falls on a day that is not a Business Day, an adjustment of the Interest Payment Date will be made so that the relevant Interest Payment Date will be the first following day that is a Business Day unless that day falls in the next calendar month, in which case that date will be the first preceding day that is a Business Day (modified following Business Day Convention).

"**Change of Control Event**" means if:

- (i) any person or group of persons under the same Decisive Influence, or two or more persons acting in concert (other than the Saverex NV or any indirectly or directly owned Subsidiary of the Saverex NV) obtains Decisive Influence over the Parent; or
- (ii) a de-listing of the Parent's shares from NYSE Euronext Brussels (or any other recognized stock exchange) occurs.

**"Current Assets"** means the book value of the Group's assets which are treated as current assets in accordance with IFRS less the book value of any Restricted Cash.

**"Current Liabilities"** means the book value of the Group's liabilities which are treated as current liabilities in accordance with IFRS, excluding the current portion of long term debt.

**"Decisive Influence"** means a person having, as a result of an agreement or through the ownership of shares or interests in another person:

- (a) a majority of the voting rights in that other person; or
- (b) a right to elect or remove a majority of the members of the board of directors of that other person.

When determining the relevant person's number of voting rights or right to elect and remove members of the board of directors in the other person, rights in the other person held directly or indirectly by the parent company of the relevant person shall be included.

**"Defeasance Security"** shall have the meaning given to it in Clause 19.2.

**"Distributions"** shall have the meaning given to it in Clause 14.12(c).

**"EBITDA"** means the Group's earnings before interest, taxes, depreciation and amortization (to be calculated on a 12-month rolling basis).

**"Equity"** means the book value of the Group's total equity treated as equity in accordance with IFRS.

**"Equity Ratio"** means the ratio of Equity to Total Assets.

**"EUR"** means the currency of the Participating Member States.

**"Event of Default"** means the occurrence of an event or circumstance specified in Clauses 16.1 – 16.9.

**"Exchange"** means Oslo Stock Exchange (Nw: *Oslo Børs*) where the Issuer has applied or shall apply for listing of the Bonds.

**"Face Value"** means the denomination of each of the Bonds, as set out in Clause 2.3(b).

**"Final Maturity Date"** means 7 July 2017.

**"Finance Documents"** means

- (a) this Bond Agreement;



- (b) the agreement between the Bond Trustee and the Issuer referred to in Clause 15.2; and
- (c) any other document the Issuer and the Trustee designate as a Finance Document.

**"Financial Indebtedness"** means any indebtedness for or in respect of:

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

**"Financial Statements"** means the audited consolidated annual and semi-annual financial statements of each Obligor for any financial year, drawn up according to IFRS, such accounts to include a profit and loss account, balance sheet, cash flow statement and management commentary or report from the Board of Directors.

**"Financial Support"** shall have the meaning given to it in Clause 14.12 (h).

**"Free Cash"** means the Group's book value of the holdings which at all times are available for the Parent of any:

- (i) cash in hand or amounts standing to the credit of any current and/or on deposit accounts, excluding pledged and/or blocked cash and cash equivalents;
- (ii) time deposits and certificates of deposit issued, and bills of exchange; and

(iii) undrawn credit lines with minimum six months to maturity,

in each case, to which any Group Company is beneficially entitled at that time and to which the Parent has free and unrestricted access.

**"General Partner"** means the general partner of a MLP and which manages and controls the operations and activities of such MLP.

**"Group"** means the Parent and all its (directly or indirectly owned) Subsidiaries from time to time, and a **"Group Company"** means the Parent or any of its Subsidiaries.

**"Guarantee"** means the unconditional and irrevocable guarantee (Nw: *selvskyldnerkousjon*) from the Guarantor, pursuant to Clause 13.

**"IFRS"** means International Financial Reporting Standards as adopted by the European Union and refers to the International accounting standards within the meaning of IAS Regulation 1606/2002.

**"Interest Payment Date"** means 7 January, 7 April, 7 July and 7 October each year and the Final Maturity Date. Any adjustment will be made according to the Business Day Convention.

**"Interim Accounts"** means the unaudited consolidated quarterly financial statements of each Obligor for any quarter ending on a Quarter Date, drawn up according to IFRS, such accounts to include a profit and loss account, balance sheet, cash flow statement and management commentary or report from the Board of Directors.

**"ISIN"** means International Securities Identification Number – the identification number of the Bond Issue.

**"Issue Date"** means 7 July 2014.

**"Issuer's Bonds"** means any Bonds owned by any of the Obligors, any person or persons who has Decisive Influence over an Obligor or any person or persons over whom an Obligor has Decisive Influence.

**"JV Company"** means any current and/or future company or partnership in which the Parent (directly or indirectly) holds an ownership interest incorporated or established for the purpose of directly or indirectly owning, developing and/or constructing any maritime operating vessel or any other operation which is substantially within the business that the Group is conducting at the date of this Bond Agreement, and which is not a Subsidiary of the Parent. Following a Qualifying MLP Transaction the term JV Company includes the MLP.

**"Managers"** means the managers for the Bond Issue, being DNB Bank ASA, DNB Markets, Dronning Eufemias gate 30, NO-0021 Oslo, Norway and Pareto Securities AS, Dronning Mauds gate 3, NO-0115 Oslo, Norway.

**"Margin"** means 4.50 percentage points (4.50 %) per annum.

**"Material Adverse Effect"** means an event or circumstance which has a material adverse effect on: (a) the business, financial condition or operations of the Parent and/or the Group taken as a whole, (b) the Issuer's or the Parent's ability to perform and comply with its obligations under this Bond Agreement; or (c) the validity or enforceability of the Finance Documents. For the avoidance of doubt, the term Material Adverse Effect includes,

without limitation, any material adverse effect on the Parent or the Group taken as a whole, as a result of any material adverse effect in any JV Company.

"MLP" means any future "master limited partnership" whose limited partnership shares are traded on a regulated market place or a securities exchange established by a sponsor and which is managed and controlled by a General Partner with a number of limited partners as investors in which the profit is paid to the limited partners based on "available cash" with an aim of maximizing the MLP's distributions, but so that the actual distributions are based on the General Partner's discretion.

"Net Interest Expense" means the aggregate gross cash interest costs of the Group related to the Group's interest-bearing debt less the aggregate gross cash interest income of the Group (to be calculated on a 12-month rolling basis).

"NIBOR" means the interest rate which (a) is published on Oslo Børs' webpage (or through another system or on another website replacing the said system or website respectively) approximately 12.15 (on days on which the Norwegian money market has shorter opening hours (New Year's Eve and the Wednesday before Maundy Thursday), the data published by the banks at 10 a.m. shall be used), or, if such publication does not exist, (b) at that time corresponds to (i) the average of the quoted lending rates of Norwegian commercial banks on the interbank market in Oslo or, if only one or no such quotes are provided, (ii) the assessment of the Bond Trustee of the interest rate, which in the Bond Trustee's determination is equal to what is offered by Norwegian commercial banks, for the applicable period in the Oslo interbank market. If any such rate is below zero, NIBOR will be deemed to be zero.

"NOK" means Norwegian kroner, being the lawful currency of Norway.

"Obligors" means the Issuer and the Parent, each an Obligor.

"Outstanding Bonds" means the Bonds not redeemed or otherwise discharged.

"Participating Member State" means any member state of the European Union that adopts or has EUR as its lawful currency in accordance with legislation of the European Union relating to the Economic and Monetary Union.

"Party" means a party to this Bond Agreement (including its successors and permitted transferees).

"Paying Agent" means DNB Bank ASA.

"Permitted Financial Indebtedness" means:

- (a) the Bond Issue;
- (b) existing secured or unsecured Financial Indebtedness provided by commercial banks and/or export credit agencies incurred by the Issuer or any Group Company prior to the date of this Bond Agreement for the purpose of financing existing vessels or assets;
- (c) future senior secured or unsecured Financial Indebtedness provided by commercial banks and/or export credit agencies incurred by the Issuer or any Group Company on marketable terms and conditions with the purpose of financing the acquisition of new vessels or assets (newbuildings and/or second-hand



vessels) (or acquisition of shares in entities owning one or more newbuildings or second-hand vessels or assets);

- (d) any unsecured bonds issued by the Issuer or the Parent with (i) no amortization and with maturity after the Final Maturity Date of the Bonds, (ii) terms not materially more favourable than the Bonds, and (iii) without any Financial Support from any other Group Company (save for any parent guarantee from the Parent similar to the Guarantee);
- (e) Financial Indebtedness incurred by any Group Company in the ordinary course of business for working capital purposes and as part of the daily operations of such Group Company;
- (f) existing and future bid-, payment- and performance bonds, guarantees and letters of credit incurred by any Group Company in the ordinary course of business;
- (g) obligations incurred by any Group Company under any interest rate and currency hedging agreements relating to any Permitted Financial Indebtedness;
- (h) unsecured intra-group loans between any Group Companies;
- (i) other Subordinated Loans to the Parent;
- (j) any Financial Indebtedness not permitted by the preceding paragraphs and incurred by the Group in an aggregate outstanding principal amount which does not at any time exceed USD 10 million (or its equivalent in other currencies); and
- (k) any refinancing, amendment or replacement of any of the above from time to time, however always subject to the financial covenants set out in Clause 14.13.

**"Permitted Security" means:**

- (a) Security granted in relation to Permitted Financial Indebtedness paragraphs (b), (c) and (g) above;
- (b) Security provided by way of a pledge of shares or ownership interests in any Subsidiary and/or JV Company as security for customary financing of such Subsidiary or JV Company's investments in vessels or other assets;
- (c) any Security arising by operation of law in the ordinary course of business;
- (d) any netting or set-off arrangement entered into by any Group Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of any Group Companies (if applicable);
- (e) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to any Group Company in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by any such Group Company; and
- (f) Security in an aggregate amount of up to USD 10 million not otherwise permitted above.

**"Proportional Consolidation"** means the pro-forma consolidation of any JV Company as if such JV Company was a Subsidiary of the Parent but adjusted for any ownership interest not directly or indirectly held by the Parent, such consolidation to include an auditor's opinion for annual and semi-annual accounts.

**"Put Option"** shall have the meaning given to it in Clause 10.2.

**"Qualifying MLP Transaction"** means a transaction whereby the Parent transfers its ownership in some of its assets to a MLP and the Parent maintains (directly or indirectly) 100 % ownership in the General Partner.

**"Quarter Date"** means each 31 March, 30 June, 30 September and 31 December.

**"Restricted Cash"** means cash which is pledged and/or blocked.

**"Saverex NV"** means Saverex NV, a company existing under the laws of the Kingdom of Belgium with registration number 0436.287.291 .

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

**"Security and Covenant Defeasance"** shall have the meaning given to it in Clause 19.2.

**"Securities Depository"** means the securities depository in which the Bond Issue is registered, being Verdipapirsentralen ASA (VPS) in Norway.

**"Stamdata"** means the web site [www.stamdata.no](http://www.stamdata.no), maintained by the Bond Trustee.

**"Subordinated Loan"** shall have the meaning set out in Clause 14.12(i).

**"Subsidiary"** means an entity over which the Parent directly or indirectly has a Decisive Influence.

**"US Securities Act"** means the U.S. Securities Act of 1933, as amended.

**"USD"** means US Dollars, being the legal currency of the United States of America.

**"Tap Issue"** means subsequent issues after the Issue Date up to the maximum amount described in Clause 2.4.

**"Total Assets"** means the book value of the Group's total assets treated as assets in accordance with IFRS.

**"Voting Bonds"** means the Outstanding Bonds less the Issuer's Bonds.

**"Working Capital"** means Current Assets less Current Liabilities.

## **1.2 Construction**

In this Bond Agreement, unless the context otherwise requires:

- (a) headings are for ease of reference only;
- (b) words denoting the singular number shall include the plural and vice versa;

- (c) references to Clauses are references to the Clauses of this Bond Agreement;
- (d) references to a time is a reference to Oslo time unless otherwise stated herein;
- (e) references to a provision of law is a reference to that provision as it may be amended or re-enacted, and to any regulations made by the appropriate authority pursuant to such law, including any determinations, rulings, judgments and other binding decisions relating to such provision or regulation;
- (f) an Event of Default is "continuing" if it has not been remedied or waived; and
- (g) references to a "person" shall include any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality).

## 2 THE BONDS

### 2.1 Binding nature of this Bond Agreement

By virtue of being registered as a Bondholder (directly or indirectly) with the Securities Depository, the Bondholders are bound by the terms of this Bond Agreement and any other Finance Document, without any further action required to be taken or formalities to be complied with, see also Clause 15.1.

### 2.2 Availability

This Bond Agreement is available to anyone and may be obtained from the Bond Trustee or the Obligor. Each Obligor shall ensure that this Bond Agreement is available to the general public throughout the entire term of the Bonds. This Bond Agreement may be published on Stamdata or such other venues as decided by the Bond Trustee.

### 2.3 The Bonds

- (a) The Issuer has resolved to issue a series of Bonds in the maximum amount of NOK 1,000,000,000 (Norwegian kroner one billion). The Bond Issue may comprise one or several tranches issued on different issue dates. The first tranche will be in the amount of NOK 700,000,000 (Norwegian kroner seven hundred million).
- (b) The Face Value is NOK 1,000,000. The Bonds shall rank pari passu between themselves.
- (c) The Bond Issue will be described as "FRN EXMAR Netherlands BV Senior Unsecured Bond Issue 2014/2017".
- (d) The ISIN of the Bond Issue will be NO 001 0714512.
- (e) The tenor of the Bonds is from and including the Issue Date to the Final Maturity Date.



## **2.4 Tap Issue**

The Bond Issue is a Tap Issue, under which subsequent issues may take place after Issue Date up to the maximum amount described in Clause 2.3, running from the Issue Date and to be closed no later than five (5) Business Days prior to the Final Maturity Date.

For Tap Issues not falling on an Interest Payment Date, accrued interest will be calculated using standard market practice in the secondary bond market.

The rights and obligations of all parties to this Bond Agreement shall also apply to Tap Issues. The Bond Trustee will on the issuance of Tap Issues make an addendum to this Bond Agreement regulating the conditions for such Tap Issue.

## **2.5 Purpose and utilization**

The net proceeds from the Bonds shall be used to finance new investments in LNG infrastructure assets and additional offshore assets and for general corporate purposes.

## **3 LISTING**

- (a) The Issuer shall apply for listing of the Bonds on the Exchange.
- (b) If the Bonds are listed, the Issuer shall ensure that the Bonds remain listed until they have been discharged in full.

## **4 REGISTRATION IN THE SECURITIES DEPOSITORY**

### **4.1 Registration**

The Bond Issue and the Bonds shall prior to disbursement be registered in the Securities Depository according to the Norwegian Securities Depository Act (Act 2002/64) and the terms and conditions of the Securities Depository. Principal and interest accrued will be credited the Bondholders through VPS.

### **4.2 Notifications**

The Issuer shall ensure that correct registration in the Securities Depository is made and shall notify the Securities Depository of any changes in the terms and conditions of this Bond Agreement. The Bond Trustee shall receive a copy of the notification. The registration may be executed by the Paying Agent.

### **4.3 US Securities Act**

The Bonds have not been registered under the US Securities Act, and the Issuer is under no obligation to arrange for registration of the Bonds under the US Securities Act.

## **5 PURCHASE AND TRANSFER OF BONDS**

Bondholders may be subject to purchase or transfer restrictions with regard to the Bonds, as applicable from time to time under local laws to which a Bondholder may be subject (due e.g. to its nationality, its residency, its

registered address, its place(s) for doing business). Each Bondholder must ensure compliance with applicable local laws and regulations at its own cost and expense.

Notwithstanding the above, a Bondholder which has purchased the Bonds in breach of applicable mandatory restrictions may nevertheless utilise its rights (including, but not limited to, voting rights) under this Bond Agreement.

## **6 CONDITIONS PRECEDENT**

### **6.1 Conditions Precedent**

Disbursement of the net proceeds of the first tranche of the Bonds to the Issuer will be subject to the Bond Trustee having received the documents listed below, in form and substance satisfactory to it, at least two Business Days prior to the Issue Date:

- (a) this Bond Agreement, duly executed by all parties thereto;
- (b) directors certificate of resolutions of the Issuer to issue the Bonds and execute the Finance Documents;
- (c) a power of attorney from the Issuer to relevant individuals for their execution of the relevant Finance Documents, or extracts from the relevant register or similar documentation evidencing such individuals' authorisation to execute the Finance Documents on behalf of the Issuer;
- (d) certified copies of (i) the Certificate of Incorporation or other similar official document for the Issuer, evidencing that it is validly registered and existing and (ii) the Articles of Association of the Issuer;
- (e) the Issuer's latest Financial Statements and Interim Accounts (if any);
- (f) confirmation from the Managers that the requirements set out in Chapter 7 of the Norwegian Securities Trading Act (implementing the EU prospectus directive (2003/71 EC) concerning prospectuses have been fulfilled;
- (g) to the extent necessary, any public authorisations required for the Bond Issue;
- (h) confirmation that the Bonds have been registered in the Securities Depository;
- (i) the Bond Trustee fee agreement set out in Clause 15.2, duly executed;
- (j) copies of any written documentation used in the marketing of the Bonds or made public by the Issuer or the Managers in connection with the Bond Issue;
- (k) any statements or legal opinions reasonably required by the Bond Trustee (including any capacity corporate opinions for the Issuer and opinions related to the validity, perfection and enforceability of the Finance Documents); and

- (ii) any other Finance Documents in acceptable form and duly executed.

## **6.2 Waivers**

The Bond Trustee may, in its reasonable opinion, waive the deadline or requirements for documentation as set out in Clause 6.1.

## **6.3 Bond Trustee's confirmation of conditions precedent**

Disbursement of the net proceeds from the first tranche of the Bond Issue is subject to the Bond Trustee's written notice to the Issuer, the Managers and the Paying Agent that the documents have been controlled and conditions precedent in Clause 6.1 are fulfilled.

## **6.4 Transfer / Release**

On the Issue Date, subject to receipt of confirmation from the Bond Trustee pursuant to Clause 6.3, the Managers shall make the net proceeds from the first Tranche of the Bond Issue available to the Issuer.

## **6.5 Tap Issue**

The Issuer may issue Tap Issues provided that:

- (a) the amount of the aggregate of (i) the Outstanding Bonds prior to such Tap Issue and (ii) the requested amount for such Tap Issue does not exceed the maximum issue amount in Clause 2.3(a);
- (b) no Event of Default has occurred or would occur as a result of the making of such Tap Issue;
- (c) the Bond Trustee having received the documents listed in Clause 6.1 (b), (c), (d), (g), (h), (j) and (k), with respect to each of the Obligors, in form and substance satisfactory to it, at least two Business Days prior to each Tap Issue;
- (d) the representations and warranties contained in this Bond Agreement remain true and correct and are repeated by each Obligor; and
- (e) that such Tap Issue is in compliance with applicable laws and regulations as of the time of such Tap Issue.

## **7 REPRESENTATIONS AND WARRANTIES**

Each Obligor represents and warrants to the Bond Trustee that:

### **7.1 Status**

It is a limited liability company, duly incorporated and validly existing and registered under the laws of its jurisdiction of incorporation, and has the power to own its assets and carry on its business as it is being conducted.



## **7.2 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Bond Agreement and any other Finance Document to which It is a party and the transactions contemplated by those Finance Documents.

## **7.3 Valid, binding and enforceable obligations**

This Bond Agreement and each other Finance Document to which it is a party constitutes (or will constitute, when executed by the respective parties thereto) its legal, valid and binding obligations, enforceable in accordance with their respective terms, and (save as provided for therein) no further registration, filing, payment of tax or fees or other formalities are necessary or desirable to render the said documents enforceable against It.

## **7.4 Non-conflict with other obligations**

The entry into and performance by It of this Bond Agreement and any other Finance Document to which it is a party and the transactions contemplated thereby do not and will not conflict with:

- (a) any law or regulation or judicial or official order;
- (b) its constitutional documents; or
- (c) any agreement or instrument which is binding upon it or any of its assets.

## **7.5 No Event of Default**

- (a) No Event of Default exists or is likely to result from the making of any drawdown under this Bond Agreement or the entry into, the performance of, or any transaction contemplated by, any Finance Document.
- (b) No other event or circumstance is outstanding which constitutes (or with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on any Group Company or to which any Group Company's assets are subject which has or is likely to have a Material Adverse Effect.

## **7.6 Authorizations and consents**

All authorisations, consents, approvals, resolutions, licenses, exemptions, filings, notarizations or registrations required:

- (a) to enable it to enter into, exercise its rights and comply with its obligations under this Bond Agreement or any other Finance Document to which it is a party; and
- (b) to carry on its business as presently conducted and as contemplated by this Bond Agreement,

have been obtained or effected and are in full force and effect.

## **7.7 Litigation**

No litigation, arbitration or administrative proceedings or investigations of or before any court, arbitral body or agency which, if adversely determined, is likely to have a Material Adverse Effect have (to the best of its knowledge and belief) been started or threatened against any Group Company.

## **7.8 Financial Statements**

Its most recent Financial Statements and Interim Accounts fairly and accurately represent the assets and liabilities and financial condition as at their respective dates, and have been prepared in accordance with IFRS, consistently applied.

## **7.9 No Material Adverse Effect**

Since the date of the most recent Financial Statements, there has been no change in its business, assets or financial condition that is likely to have a Material Adverse Effect.

## **7.10 No misleading information**

Any factual information provided by it to the subscribers or the Bond Trustee for the purposes of this Bond Issue was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated.

## **7.11 No withholdings**

The Issuer is not required to make any deduction or withholding from any payment which it may become obliged to make to the Bond Trustee or the Bondholders under this Bond Agreement.

## **7.12 Pari passu ranking**

Its payment obligations under this Bond Agreement or any other Finance Document to which it is a party rank at least pari passu as set out in Clause 8.1.

## **7.13 Security**

No Security exists over any of the present assets of any Group Company in conflict with this Bond Agreement.

## **7.14 Repetition**

The representations and warranties set out in Clause 7 are made on the execution date of this Bond Agreement, and shall be deemed to be repeated on the Issue Date.

# **8 STATUS OF THE BONDS AND SECURITY**

## **8.1 Status**

The Bonds shall constitute senior unsecured debt obligations of the Issuer and contingent senior unsecured debt obligations in form of the Guarantee for the Parent. The Bonds shall rank at least pari passu with all other unsecured senior obligations of the Issuer (save for such claims which are preferred by bankruptcy, insolvency, liquidation or other similar laws of general application) and shall rank ahead of subordinated capital.

## 8.2 Security

The Bonds are unsecured.

## 9 INTEREST

### 9.1 Interest rate

The Issuer shall pay interest on the par value of the Bonds from, and including, the Issue Date at the Bond Reference Rate plus the Margin (together the "Floating Rate").

### 9.2 Interest Payment Dates

Interest payments shall be made in arrears on the Interest Payment Dates each year, the first Interest Payment Date falling 7 October 2014.

### 9.3 Calculation of interest payments

- (a) The relevant interest payable amount shall be calculated based on a period from, and including, the Issue Date or an Interest Payment Date (as the case may be) to, but excluding, the next following applicable Interest Payment Date.
- (b) The day count fraction ("Floating Rate Day Count Fraction") in respect of the calculation of the payable interest amount shall be "Actual/360", which means the number of days in the calculation period in which a payment is being made divided by 360.

The applicable Floating Rate on the Bonds is set/reset on each Interest Payment Date by the Bond Trustee commencing on the Interest Payment Date at the beginning of the relevant calculation period, based on the Bond Reference Rate two (2) Business Days preceding that Interest Payment Date.

When the interest rate is set for the first time and on subsequent interest rate resets, the next Interest Payment Date, the interest rate applicable up to the next Interest Payment Date and the actual number of calendar days up to that date shall immediately be notified to the Bondholders, the Issuer, the Paying Agent, and if the Bonds are listed, the Exchange.

- (c) The payable interest amount per Bond for a relevant calculation period shall be calculated as follows:

$$\begin{array}{ccccccc} \text{Interest} & & \text{Face} & & \text{Floating} & & \text{Floating Rate} \\ \text{Amount} & = & \text{Value} & \times & \text{Rate} & \times & \text{Day Count} \\ & & & & & & \text{Fraction} \end{array}$$

## 10 MATURITY OF THE BONDS AND REDEMPTION

### 10.1 Maturity

The Bonds shall mature in full on the Final Maturity Date, and shall be repaid at par (100%) by the Issuer.

## **10.2 Change of control**

- (a) Upon the occurrence of a Change of Control Event, each Bondholder shall have the right to require that the Issuer redeems its Bonds (a "Put Option") at a price of 101% of par plus accrued interest of par value.
- (b) The Put Option must be exercised within 30 calendar days after the Parent has given notification to the Bond Trustee of a Change of Control Event. Such notification shall be given by the Parent as soon as possible after a Change of Control Event has taken place.
- (c) The Put Option may be exercised by each Bondholder by giving written notice of the request to its Account Manager. The Account Manager shall notify the Paying Agent of the redemption request. The settlement date of the Put Option shall be within 60 calendar days following notice of the Change of Control Event.
- (d) On the settlement date of the Put Option, the Issuer shall pay to each of the Bondholders holding Bonds to be redeemed, the principal amount of each such Bond (including any premium pursuant to Clause 10.2(a)) and any unpaid interest accrued up to (but not including) the settlement date.

## **11 PAYMENTS**

### **11.1 Covenant to pay**

- (a) The Issuer will on any Interest Payment Date (or any other due date pursuant to any Finance Document) unconditionally pay to or to the order of the Bond Trustee all amounts due under this Bond Agreement or any other Finance Document.
- (b) The covenant contained in Clause 11.1(a) shall be for the benefit of the Bond Trustee and the Bondholders.

### **11.2 Payment mechanics**

- (a) If no specific order is made by the Bond Trustee under Clause 11.1(a), the Issuer shall pay all amounts due to the Bondholders under this Bond Agreement or any other Finance Document by crediting the bank account nominated by each Bondholder in connection with its securities account in the Securities Depository.
- (b) Payment shall be deemed to have been made once the amount has been credited to the bank which holds the bank account nominated by the Bondholder in question, but if the paying bank and the receiving bank are the same, payment shall be deemed to have been made once the amount has been credited to the bank account nominated by the Bondholder in question, see however Clause 11.3.
- (c) In case of irregular payments, the Bond Trustee may instruct the Issuer or Bondholders of other payment mechanisms than described in Clause 11.1 or 11.2 above. The Bond Trustee may also obtain payment information regarding Bondholders' accounts from the Securities Depository or Account Managers.
- (d) Subject to Clause 11.3, payment by the issuer in accordance with this Clause 11.2 shall constitute good discharge of its obligations under Clause 11.1 (a).

### **11.3 Currency**

- (a) If the Bonds are denominated in other currencies than NOK, each Bondholder has to provide the Paying Agent (either directly or through its Account Manager) with specific payment instructions, including foreign exchange bank account details. Depending on any currency exchange settlement agreements between each Bondholder's bank and the Paying Agent, cash settlement may be delayed, and payment shall be deemed to have been made at the date of the cash settlement, provided however, that no default interest or other penalty shall accrue for the account of the Issuer.
- (b) Except as otherwise expressly provided, all amounts payable under this Bond Agreement and any other Finance Document shall be payable in the same currency as the Bonds are denominated in. If, however, the Bondholder has not given instruction as set out in Clause 11.3(a) within five (5) Business Days prior to a Interest Payment Date, the cash settlement will be exchanged into NOK and credited to the NOK bank account registered with the Bondholders account in the Securities Depository.
- (c) Amounts payable in respect of costs, expenses, taxes and other liabilities of a similar nature shall be payable in the currency in which they are incurred.

### **11.4 Set-off and counterclaims**

The Issuer may not apply or perform any counterclaims or set-off against any payment obligations pursuant to this Bond Agreement or any other Finance Document.

### **11.5 Interest in the event of late payment**

- (a) In the event that any amount due under this Bond Agreement or any Finance Document is not made on the relevant due date, the unpaid amount shall bear interest from the due date at an interest rate equivalent to the interest rate according to Clause 9 plus five per cent. (5.00%) per annum.
- (b) The interest charged under this Clause 11.5 shall be added to the defaulted amount on each respective Interest Payment Date relating thereto until the defaulted amount has been repaid in full.
- (c) The unpaid amounts shall bear interest as stated above until payment is made, whether or not the Bonds are declared to be in default pursuant to Clauses 16.1 – 16.9, cf. Clause 16.10.

### **11.6 Partial payments**

If the Bond Trustee or the Paying Agent receives a payment that is insufficient to discharge all the amounts then due and payable under the Finance Documents, that payment shall be applied in the following order:

- (a) first, in or towards payment of any unpaid fees, costs and expenses of the Bond Trustee under the Finance Documents;
- (b) secondly, in or towards payment of any accrued interest due but unpaid under this Bond Agreement, pro rata and without any preference or priority of any kind; and
- (c) thirdly, in or towards payment of any principal due but unpaid under this Bond Agreement, pro rata and without any preference or priority of any kind.



## 12 ISSUER'S ACQUISITION OF BONDS

The Obligors have the right to acquire and own Bonds (Issuer's Bonds). The Obligors' holding of Bonds may at the Obligors' discretion be retained by the Obligors, sold or discharged.

## 13 GUARANTEE AND INDEMNITY

### 13.1 Guarantee

The Guarantor hereby, irrevocably and unconditionally:

- (a) guarantee to the Bond Trustee (on behalf of the Bondholders), as for its own debt and not merely as surety (*Nw: selvskyldnerkausjon*), the due and punctual performance by the Issuer of all its obligations under the Finance Documents and accept that the Bond Trustee may make a demand to the Guarantor for immediate payment of any due and unpaid amount (interest, principal or other) under any Finance Document; and
- (b) undertake with the Bond Trustee (on behalf of the Bondholders) that, whenever the Issuer does not pay any amount when due under or in connection with any Finance Document, the Guarantor shall, on the Bond Trustee's first written demand and in no event any later than five (5) Business Days after the Guarantor's receipt of such demand, pay that amount to the Bond Trustee or as it directs as if it were the principal obligor in respect of that amount.

### 13.2 Waivers

The Guarantor hereby waives:

- (a) any requirement that the Bond Trustee or any of the Bondholders in case of an Event of Default first have to make demand upon or seek to enforce remedies against the Issuer;
- (b) any and all defenses or objections from any party in or based on underlying relationships, agreements and transactions whatsoever, including, without limitation, any such relationships, agreements or transactions with any third party for Security or otherwise, and right to limit the liability under the Guarantee provided hereunder resulting from any failure to give notice of any kind;
- (c) any right to exercise a right of subrogation into the rights of the Bondholders under the Bond Agreement, without the prior written consent of the Bond Trustee until such time that no amounts are outstanding under this Bond Agreement and any other Finance Document;
- (d) any right to claim reimbursement from the Issuer and/or itself for payment made hereunder until such time that no amounts are outstanding under this Bond Agreement and any other Finance Document; and
- (e) any requirement that additional Security be provided or maintained.

### 13.3 Continuing Guarantee

This Guarantee is a continuing Guarantee and will extend to the ultimate balance of all sums payable by the Issuer under the Finance Documents, regardless of (i) any intermediate payment or discharge in whole or in part or (ii) the Bond Trustee enforcing any other Security granted for the Issuer's obligations under this Bond Agreement.

## 14 COVENANTS

### 14.1 General

Each of the Obligor(s) (as applicable) undertakes from the date of this Bond Agreement and until such time that no amounts are outstanding under this Bond Agreement or any other Finance Document, to the Bond Trustee, as further set out in this Clause 14.

### 14.2 Information Covenants

Each Obligor shall:

- (a) without being requested to do so, promptly inform the Bond Trustee in writing of any Event of Default, any event or circumstance which could reasonably be expected to lead to an Event of Default and any other event which could reasonably be expected to have a Material Adverse Effect;
- (b) without being requested to do so, inform the Bond Trustee in writing if any of the Obligor(s) agrees to sell or dispose of all or a substantial part of its assets or operations, or change the nature of its business;
- (c) without being requested to do so, prepare Financial Statements and make them available on its website in the English language (alternatively by arranging for publication at Stamdata) as soon as they become available, and not later than 120 days after the end of the financial year and not later than 90 days after each second quarter;
- (d) without being requested to do so, prepare Interim Accounts and make them available on its website in the English language (alternatively by arranging for publication on Stamdata) as soon as they become available, and not later than 60 days after the end of each first and third quarter;
- (e) at the request of the Bond Trustee, report the balance of the Issuer's Bonds;
- (f) without being requested to do so, send the Bond Trustee copies of any statutory notifications of the Obligor(s), including but not limited to in connection with mergers, de-mergers and reduction of each Obligor's share capital or equity;
- (g) if the Bonds are listed on an Exchange, without being requested to do so, send a copy to the Bond Trustee of its notices to the Exchange;
- (h) if any of the Obligor(s) and/or the Bonds are rated, without being requested to do so, inform the Bond Trustee of the Obligor(s)' and/or the rating of the Bond issue, and any changes to such rating;

- (i) without being requested to do so, inform the Bond Trustee of changes in the registration of the Bonds in the Securities Depository; and
- (ii) within a reasonable time, provide such information about each Obligor's business, assets and financial condition as the Bond Trustee may reasonably request.

#### **14.3 Compliance Certificate**

The Parent shall in connection with the publication of its financial reports under paragraphs (c) and (d) above confirm to the Bond Trustee in writing the Obligors' compliance with the covenants in this Clause 14, unless the Bond Trustee explicitly waives such requirement. Such confirmation shall be undertaken in a certificate, substantially in the form set out in Attachment 1 hereto, signed by the Chief Operating Officer or Chief Financial Officer of the Parent (a "Compliance Certificate"). In the event of non-compliance, the Compliance Certificate shall describe the non-compliance, the reasons therefore as well as the steps which the Parent has taken and will take in order to rectify the non-compliance.

#### **14.4 Pari passu ranking**

Each Obligor shall ensure that its obligations under this Bond Agreement and any other Finance Document shall at all times rank at least pari passu as set out in Clause 8.1.

#### **14.5 Mergers**

The Obligors shall not, and shall ensure that no other Group Company shall, carry out any merger or other business combination or corporate reorganization involving consolidating the assets and obligations of any of the Obligors or such Group Company with any other company or entity not being a member of the Group if such transaction would have a Material Adverse Effect.

#### **14.6 De-mergers**

The Obligors shall not, and shall ensure that no other Group Company shall, carry out any de-merger or other corporate reorganization involving splitting any of the Obligors or such Group Company into two or more separate companies or entities, if such transaction would have a Material Adverse Effect.

#### **14.7 Continuation of business**

The Obligors shall not, and shall ensure that no other Group Company shall, cease to carry on its respective business, if such cessation would have a Material Adverse Effect. The Parent shall procure that no material change is made to the general nature or scope of the business of the Group from that carried on at the date of this Bond Agreement, or as contemplated by this Bond Agreement.

#### **14.8 Insurances**

Each Obligor shall, and the Parent shall procure that each Group Company will, maintain, with financially sound and reputable insurance companies, funds or underwriters, adequate insurance- or captive arrangements with respect to its vessels, other assets, equipment and business against such liabilities, casualties and contingencies and of such types and in such amounts as are consistent with customary and prudent business practice for each type of vessel or asset and in their relevant jurisdictions and areas of operation.

#### 14.9 Arm's length transactions

The Obligor shall not engage in, or permit any other Group Company to engage in, directly or indirectly, any transaction with any party (without limitation, the purchase, sale or exchange of assets or the rendering of any service), except in the ordinary course of business and pursuant to the reasonable requirement of any of the Obligor's or such Group Company's business and upon fair and reasonable terms that are no less favorable to any of the Obligor's or such Group Company, as the case may be, than those which might be obtained in an arm's length transaction at the time.

#### 14.10 Corporate status

No Obligor shall change its type of organization or jurisdiction of incorporation.

#### 14.11 Compliance with laws

Each Obligor shall, and shall ensure that all other Group Companies shall, carry on its business in accordance with acknowledged, careful and sound practices in all aspects and comply in all respects with all laws and regulations it or they may be subject to from time to time. Breach of these obligations shall be regarded as non-compliance only if such breach would have a Material Adverse Effect.

#### 14.12 Special covenants

- (a) **Duty of loyalty:** Unless otherwise specified or implied herein, each Obligor shall, and shall ensure that any Group Company shall, use its best endeavours (hereunder by voting rights in any capacity and/or as General Partner) to ensure compliance with the Obligor's undertakings as described in Clause 14.2 – 14.11 in any JV Company.
- (b) **Parent's minimum ownership of the Issuer:** The Parent shall at all times maintain a 100% direct or indirect ownership of the Issuer.
- (c) **Dividend Restrictions:** The Parent shall not (i) declare or make any dividend payment or distribution, whether in cash or in kind, (ii) repurchase any of its shares or undertake other similar transactions (including, but not limited to total return swaps related to shares in the Parent), or (iii) grant any loans or make other distributions or transactions constituting a transfer of value to its shareholders (items (i)-(iii) collectively referred to as "Distributions") that in aggregate exceed, during any calendar year, the higher of (i) 50% of the Parent's consolidated net profit after taxes (based on Proportional Consolidation) based on the audited annual accounts for the previous financial year and (ii) EUR 0.30 per share (based on the number of shares as of the date of this Bond Agreement and to be adjusted for stock splits, mergers and/or new share issues), and always provided that no Event of Default has occurred and is continuing or will occur as a result of such Distribution.

Notwithstanding the above, the Parent may make interim Distributions during any calendar year based on preliminary accounts for that financial year, however provided that the aggregate Distribution (interim and otherwise) for any financial year does not exceed the higher of alternative (i) and (ii) as described above.

Any un-utilized portion of the permitted Distribution pursuant to the above may not be carried forward.



- (d) **Subsidiaries' and/or JV Companies' distributions:** The Parent shall not permit any Subsidiary or JV Company to create or permit to exist any contractual obligation or encumbrance (except to the extent required to comply with customary cash waterfall provisions, financial covenants or other similar restrictions in financing agreements) restricting the right to:

- (i) pay dividends or make other distributions to its shareholders;
- (ii) service any Financial Indebtedness to the Parent;
- (iii) make any loans to the Parent; or
- (iv) transfer any of its assets and properties to the Parent;

If the creation of such contractual obligation is reasonably likely to prevent the Issuer and the Parent (as applicable) from complying with their obligations under this Bond Agreement.

- (e) **Disposal of assets/business:** The Obligors shall not, and shall ensure that no other Group Company shall, sell or otherwise dispose of all or a substantial part of the Group's assets or operations unless:

- (i) the transaction is carried out at fair market value, on terms and conditions customary for such transactions; and
- (ii) such transaction does not have a Material Adverse Effect.

Notwithstanding the above, or any other provisions of this Bond Agreement, the Parent shall be entitled to transfer assets to an MLP where the Parent controls directly or indirectly 100% of the voting rights and equity of the General Partner and at least 25% of the equity of the MLP, provided that any such transaction is made on fair market terms and does not have a Material Adverse Effect.

- (f) **Financial Indebtedness restrictions:** The Obligors shall not, and shall ensure that no other Group Company shall, incur, create or permit to subsist any Financial Indebtedness (including guarantees) other than the Permitted Financial Indebtedness.
- (g) **Negative Pledge:** The Obligors shall not, and shall ensure that no other Group Company shall, create, permit to subsist or allow to exist any Security over any of its present or future respective assets or its revenues, other than the Permitted Security.
- (h) **Financial support restrictions:** The Obligors shall not, and shall ensure that no other Group Company shall, grant any loans, guarantees or other financial assistance (including, but not limited to granting of security) ("Financial Support") to or for the benefit of any third party, other Group Companies or JV Companies other than by way of:
- (i) guarantees for Permitted Financial Indebtedness in any Group Company;
  - (ii) guarantees for Financial Indebtedness in any JV Company;

- (iii) equity contribution and/or other subordinated capital for customary capitalization of any JV Company;
  - (iv) a working capital facility made available by the Parent or any Group Company to an MLP, in the maximum aggregate amount of USD 25,000,000; and/or
  - (v) Permitted Security.
- (i) **Subordination of intra-group loans to the Parent:** The Parent undertakes that any intra-group loans and/or shareholder loans to the Parent ("**Subordinated Loans**") are subject to the following conditions: (i) any amortization and maturity is after the Final Maturity Date, (ii) no Security is or shall be provided, (iii) no payment of interest prior to the Final Maturity Date and (iv) no repayment to or enforcement by the lender(s) thereunder prior to the full and irrevocable repayment of the Bonds.

#### 14.13 Financial Covenants

During the term of the Bond Issue, the Parent shall comply with the following financial covenants:

- (a) **Liquidity:** The Parent shall maintain Free Cash of USD 25,000,000;
- (b) **Equity Ratio:** The Parent shall maintain an Equity Ratio of minimum 25 %;
- (c) **Minimum Equity:** The Parent shall maintain an Equity of minimum USD 300,000,000;
- (d) **Interest Coverage Ratio:** The Parent shall maintain an EBITDA to Net Interest Expense ratio of minimum 2.00:1; and
- (e) **Minimum Working Capital:** The Parent shall maintain a positive Working Capital.

The Parent undertakes to comply with the above financial covenants at all times, such compliance to be measured on each Quarter Date and certified by the Parent in connection with delivery of its Financial Statements and Interim Accounts through the delivery of the Compliance Certificate in Attachment 1 to the Bond Trustee.

All financial covenants shall be calculated on a consolidated basis for the Group, and (notwithstanding anything to the contrary in this Bond Agreement) all JV Companies shall be included in the calculation based on Proportional Consolidation.

### 15 FEES AND EXPENSES

#### 15.1 Expenses

The Issuer shall cover all costs and expenses incurred by it or the Bond Trustee in connection with this Bond Agreement and the fulfilment of its obligations under this Bond Agreement or any other Finance Document, including in connection with the negotiation preparation, execution and enforcement of this Bond Agreement and the other Finance Documents and any registration or notifications relating thereto (including any stamp duty), the listing of the Bonds on an Exchange (if applicable), and the registration and administration of the

Bonds in the Securities Depository. The Bond Trustee may withhold funds from any escrow account (or similar arrangement) or from other funds received from any Obligor or any other person), irrespective of such funds being subject to Security under a Finance Documents, to set-off and cover any such costs and expenses.

#### **15.2 Fee Agreement**

The fees, costs and expenses payable to the Bond Trustee shall be paid by the Issuer and are set out in a separate agreement between the Issuer and the Bond Trustee.

#### **15.3 Payment deficiency**

Fees, costs and expenses payable to the Bond Trustee which, due to an Obligor's insolvency or similar circumstances, are not reimbursed in any other way may be covered by making an equivalent reduction in the proceeds to the Bondholders hereunder of any costs and expenses incurred by the Bond Trustee in connection with the restructuring or default of the Bond Issue and the enforcement of any Finance Document.

#### **15.4 Public fees**

Any public fees levied on the trade of Bonds in the secondary market shall be paid by the Bondholders, unless otherwise provided by law or regulation, and the Issuer is not responsible for reimbursing any such fees.

#### **15.5 Withholding tax**

- (a) Each Obligor is responsible for withholding any withholding tax imposed by applicable law on any payments by it to the Bondholders.
- (b) If an Obligor is required by law to withhold any withholding tax from any payment under any Finance Document:
  - (i) the amount of the payment due from the Obligor shall be increased to such amount which is necessary to ensure that the Bondholders receive a net amount which is (after making the required withholding) equal to the payment which would have been due if no withholding had been required; and
  - (ii) the Obligor shall at the request of the Bond Trustee deliver to the Bond Trustee evidence that the required tax reduction or withholding has been made.
- (c) If any withholding tax is imposed on the issuer due to subsequent changes in applicable law after the date of this Bond Agreement, the Issuer shall have the right to call all but not some of the Bonds at par value plus accrued interest. Such call shall be notified by the Issuer in writing to the Bond Trustee and the Bondholders at least thirty Business Days prior to the settlement date of the call.

### **16 EVENTS OF DEFAULT**

The Bond Trustee may declare the Bonds to be in default upon occurrence of any of the following events:

### **16.1 Non-payment**

The Issuer fails to fulfill any payment obligation due under this Bond Agreement or any Finance Document when due, unless, in the opinion of the Bond Trustee, it is likely that such payment will be made in full within five Business Days following the original due date.

### **16.2 Breach of other obligations**

Any Obligor does not comply with any provision pursuant to this Bond Agreement or any other Finance Document, unless, in the opinion of the Bond Trustee, such failure is capable of being remedied and is remedied within ten Business Days after notice thereof is given to the Issuer by the Bond Trustee.

### **16.3 Cross default**

If for any Group Company or any JV Company:

- (a) any Financial Indebtedness is not paid when due nor within any originally applicable grace period;
- (b) any Financial Indebtedness is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described);
- (c) any commitment for any Financial Indebtedness is cancelled or suspended by a creditor as a result of an event of default (however described); or
- (d) any creditor becomes entitled to declare any Financial Indebtedness due and payable prior to its specified maturity as a result of an event of default (however described),

always provided that paragraphs (a) to (d) above shall only apply to any single Financial Indebtedness in excess of USD 10 million or the equivalent thereof in other currencies.

### **16.4 Misrepresentations**

Any representation, warranty or statement (including statements in compliance certificates) made by an Obligor under this Bond Agreement or any other Finance Document or in connection therewith is or proves to have been incorrect, inaccurate or misleading in any material respect when made or deemed to have been made.

### **16.5 Insolvency**

A Group Company is unable or admits inability to pay its debts as they fall due or suspends making payments on any of its debts.

### **16.6 Insolvency proceedings and dissolution**

If for any Group Company, any corporate action, legal proceedings or other procedure step is taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) other than solvent liquidation or reorganisation;



- (b) a composition, compromise, assignment or arrangement with any creditor, having an adverse effect on the Issuer's ability to perform its payment obligations hereunder; or
- (c) the appointment of a liquidator (other than in respect of a solvent liquidation), receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets,

or any analogous procedure or step is taken in any jurisdiction. This Clause 16.6 shall not apply to any winding up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 14 days of commencement.

#### **16.7 Creditors' process**

Any Group Company has a substantial proportion of the assets impounded, confiscated, attached or subject to distraint, or is subject to enforcement of any Security over any of its assets.

#### **16.8 Impossibility or illegality**

It is or becomes Impossible or unlawful for any Group Company to fulfill or perform any of the terms of any Finance Document to which it is a party.

#### **16.9 Material Adverse Change**

Any other event or circumstance occurs which, in the reasonable opinion of the Bond Trustee, after consultations with the Issuer, would have a Material Adverse Effect.

#### **16.10 Acceleration**

- (a) In the event that one or more of the circumstances mentioned in Clauses 16.1 – 16.9 occurs and is continuing, the Bond Trustee can, in order to protect the interests of the Bondholders, declare the Outstanding Bonds including accrued interest, costs and expenses to be in default and due for immediate payment.

The Bond Trustee may at its discretion take every measure necessary to recover the amounts due under the Outstanding Bonds, and all other amounts outstanding under this Bond Agreement and any other Finance Document.

- (b) In the event that one or more of the circumstances mentioned in Clauses 16.1 – 16.9 occurs and is continuing, the Bond Trustee shall declare the Outstanding Bonds including accrued interest, costs and expenses to be in default and due for immediate payment if:
  - (i) the Bond Trustee receives a demand in writing that a default shall be declared from Bondholders representing at least 1/5 of the Voting Bonds, and the Bondholders' Meeting has not decided on other solutions; or
  - (ii) the Bondholders' Meeting has with simple majority decided to declare the Outstanding Bonds in default and due for payment.

In either case the Bond Trustee shall take every measure necessary to recover the amounts due under the Outstanding Bonds.

- (c) In the event that the Bond Trustee pursuant to the terms of Clause 16.10(a) or (b) declares the Outstanding Bonds to be in default and due for payment, the Bond Trustee shall immediately deliver to each of the Obligors a notice demanding payment of interest and principal due to the Bondholders under the Outstanding Bonds including accrued interest and interest on overdue amounts and expenses.

## **17 BONDHOLDERS' MEETING**

### **17.1 Authority of the Bondholders' Meeting**

- (a) The Bondholders' Meeting represents the supreme authority of the Bondholders community in all matters relating to the Bonds, and has the power to make all decisions altering the terms and conditions of the Bonds, including, but not limited to, any reduction of principal or interest and any conversion of the Bonds into other capital classes.
- (b) The Bondholders' Meeting cannot resolve that any overdue payment of any installment shall be reduced unless there is a pro rata reduction of the principal that has not fallen due, but may resolve that accrued interest (whether overdue or not) shall be reduced without a corresponding reduction of principal.
- (c) If a resolution by or an approval of the Bondholders is required, such resolution shall be passed at a Bondholders' Meeting, see however Clause 18.1. Resolutions passed at Bondholders' Meetings shall be binding upon all Bondholders and prevail for all the Bonds.

### **17.2 Procedural rules for Bondholders' meetings**

- (a) A Bondholders' Meeting shall be held at the written request of:
  - (i) the Issuer;
  - (ii) Bondholders representing at least 1/10 of the Voting Bonds;
  - (iii) the Exchange, if the Bonds are listed; or
  - (iv) the Bond Trustee.
- (b) The Bondholders' Meeting shall be summoned by the Bond Trustee. A request for a Bondholders' Meeting shall be made in writing to the Bond Trustee, and shall clearly state the matters to be discussed.
- (c) If the Bond Trustee has not summoned a Bondholders' Meeting within ten (10) Business Days after having received a valid request, then the requesting party may summons the Bondholders' Meeting itself.
- (d) The summons to a Bondholders' Meeting shall be dispatched no later than ten (10) Business Days prior to the date of the Bondholders' Meeting. The summons and a confirmation of each Bondholder's holdings of Bonds shall be sent to all Bondholders registered in the Securities Depository at the time of distribution. The Exchange shall also be informed if the Bonds are listed.

- (e) The summons shall specify the agenda of the Bondholders' Meeting. The Bond Trustee may in the summons also set out other matters on the agenda than those requested. If amendments to this Bond Agreement have been proposed, the main content of the proposal shall be stated in the summons.
- (f) The Bond Trustee may restrict the Issuer from making any changes in the number of Voting Bonds in the period from distribution of the summons until the Bondholders' Meeting, by serving notice to it to such effect.
- (g) Matters that have not been reported to the Bondholders in accordance with the procedural rules for summoning of a Bondholders' Meeting may only be adopted with the approval of all Voting Bonds.
- (h) The Bondholders' Meeting shall be held on premises designated by the Bond Trustee. The Bondholders' Meeting shall be opened and shall, unless otherwise decided by the Bondholders' Meeting, be chaired by the Bond Trustee. If the Bond Trustee is not present, the Bondholders' Meeting shall be opened by a Bondholder, and be chaired by a representative elected by the Bondholders' Meeting.
- (i) Minutes of the Bondholders' Meeting shall be kept. The minutes shall state the numbers of Bondholders and Bonds represented at the Bondholders' Meeting, the resolutions passed at the meeting, and the result of the voting. The minutes shall be signed by the chairman and at least one other person elected by the Bondholders' Meeting. The minutes shall be deposited with the Bond Trustee and shall be available to the Bondholders.
- (j) The Bondholders, the Bond Trustee and – provided the Bonds are listed – representatives of the Exchange, have the right to attend the Bondholders' Meeting. The chairman may grant access to the meeting to other parties, unless the Bondholders' Meeting decides otherwise. Bondholders may attend by a representative holding proxy. Bondholders have the right to be assisted by an advisor. In case of dispute the chairman shall decide who may attend the Bondholders' Meeting and vote for the Bonds.
- (k) Representatives of the Issuer have the right to attend the Bondholders' Meeting. The Bondholders' Meeting may resolve that the Issuer's representatives may not participate in particular matters. The Issuer has the right to be present under the voting.

### **17.3 Resolutions passed at Bondholders' Meetings**

- (a) At the Bondholders' Meeting each Bondholder may cast one vote for each Voting Bond owned at close of business on the day prior to the date of the Bondholders' Meeting in accordance with the records registered in the Securities Depository. The Bond Trustee may, at its sole discretion, accept other evidence of ownership. Whoever opens the Bondholders' Meeting shall adjudicate any question concerning which Bonds shall count as the Issuer's Bonds. The Issuer's Bonds shall not have any voting rights.
- (b) For this purpose, a Bondholder that has a Bond that is nominee registered shall be deemed as the Bondholder of such Bond (instead of the nominee) provided that the Bondholder presents relevant evidence stating that the relevant Bondholder is the Bondholder of the Bond and the amount of Bonds held by such Bondholder.

- (c) In all matters, the Issuer, the Bond Trustee and any Bondholder have the right to demand vote by ballot. In case of parity of votes, the chairman shall have the deciding vote, regardless of the chairman being a Bondholder or not.
- (d) In order to form a quorum, at least half (1/2) of the Voting Bonds must be represented at the meeting, see however Clause 17.4. Even if less than half (1/2) of the Voting Bonds are represented, the Bondholders' Meeting shall be held and voting completed.
- (e) Resolutions shall be passed by simple majority of the Voting Bonds represented at the Bondholders' Meeting, unless otherwise set out in Clause 17.3(f).
- (f) A majority of at least 2/3 of the Voting Bonds represented at the Bondholders' Meeting is required for any waiver or amendment of any terms of this Bond Agreement.
- (g) The Bondholders' Meeting may not adopt resolutions which may give certain Bondholders or others an unreasonable advantage at the expense of other Bondholders.
- (h) The Bond Trustee shall ensure that resolutions passed at the Bondholders' Meeting are properly implemented, however, the Bond Trustee may refuse to carry out resolutions being in conflict with this Bond Agreement (or any other Finance Document) or any applicable law.
- (i) The Issuer, the Bondholders and the Exchange shall be notified of resolutions passed at the Bondholders' Meeting.

#### **17.4 Repeated Bondholders' meeting**

- (a) If the Bondholders' Meeting does not form a quorum pursuant to Clause 17.3(d), a repeated Bondholders' Meeting may be summoned to vote on the same matters. The attendance and the voting result of the first Bondholders' Meeting shall be specified in the summons for the repeated Bondholders' Meeting.
- (b) A valid resolution may be passed at a repeated Bondholders' meeting even though less than half (1/2) of the Voting Bonds are represented.

### **18 THE BOND TRUSTEE**

#### **18.1 The role and authority of the Bond Trustee**

- (a) The Bond Trustee shall monitor the compliance by the Issuer of its obligations under this Bond Agreement and applicable laws and regulations which are relevant to the terms of this Bond Agreement, including supervision of timely and correct payment of principal or interest, (however, this shall not restrict the Bond Trustee from discussing matters of confidentiality with the Issuer), arrange Bondholders' Meetings, and make the decisions and implement the measures resolved pursuant to this Bond Agreement. The Bond Trustee is not obligated to assess the Issuer's financial situation beyond what is directly set out in this Bond Agreement.
- (b) The Bond Trustee may take any step it in its sole discretion considers necessary or advisable to ensure the rights of the Bondholders in all matters pursuant to the terms of this Bond Agreement and is entitled to

rely on advice from professional advisors. The Bond Trustee may in its sole discretion postpone taking action until such matter has been put forward to the Bondholders' Meeting. The Bond Trustee is not obliged to take any steps to ascertain whether any Event of Default has occurred and until it has actual knowledge or express notice to the contrary the Bond Trustee is entitled to assume that no Event of Default has occurred.

- (c) The Bond Trustee may make decisions binding for all Bondholders concerning this Bond Agreement, including amendments to this Bond Agreement and waivers or modifications of certain provisions, which in the opinion of the Bond Trustee, do not materially and adversely affect the rights or interests of the Bondholders pursuant to this Bond Agreement.
- (d) The Bond Trustee may reach decisions binding for all Bondholders in circumstances other than those mentioned in Clause 18.1(c) provided that prior notification has been made to the Bondholders. Such notice shall contain a proposal of the amendment and the Bond Trustee's evaluation. Further, such notification shall state that the Bond Trustee may not reach a decision binding for all Bondholders in the event that any Bondholder submits a written protest against the proposal within a deadline set by the Bond Trustee. Such deadline may not be less than five Business Days following the dispatch of such notification.
- (e) The Bond Trustee may reach other decisions than set out in Clauses 18.1(c) and 18.1(d) to amend or rectify decisions which due to spelling errors, calculation mistakes, misunderstandings or other obvious errors do not have the intended meaning.
- (f) The Bond Trustee may not adopt resolutions which may give certain Bondholders or others an unreasonable advantage at the expense of other Bondholders.
- (g) The issuer, the Bondholders and the Exchange shall be notified of decisions made by the Bond Trustee pursuant to Clause 18.1 unless such notice obviously is unnecessary.
- (h) The Bondholders' Meeting can decide to replace the Bond Trustee without the Issuer's approval, as provided for in Clause 17.3(e).
- (i) The Bond Trustee may act as bond trustee for several bond issues relating to the Issuer notwithstanding potential conflicts of interest. The Bond Trustee may delegate exercise of its powers to other professional parties.
- (j) The Bond Trustee may instruct the Paying Agent to split the Bonds to a lower denomination in order to facilitate partial redemptions or restructuring of the Bonds or other situations.

## **18.2 Liability and indemnity**

- (a) The Bond Trustee is liable only for direct losses incurred by Bondholders or the Issuer as a result of gross negligence or willful misconduct by the Bond Trustee in performing its functions and duties as set out in this Bond Agreement. Such liability is limited to the maximum amount set out in Clause 2.3. The Bond Trustee is not liable for the content of information provided to the Bondholders on behalf of the Issuer.

- (b) The Issuer is liable for, and shall indemnify the Bond Trustee fully in respect of, all losses, expenses and liabilities incurred by the Bond Trustee as a result of negligence by the Issuer (including its directors, management, officers, employees, agents and representatives) to fulfill its obligations under the terms of this Bond Agreement and any other Finance Document, including losses incurred by the Bond Trustee as a result of the Bond Trustee's actions based on misrepresentations made by the Issuer in connection with the establishment and performance of this Bond Agreement and any other Finance Document.
- (c) The Bond Trustee can as a condition for carrying out an instruction from the Bondholders (including, but not limited to, instructions set out in Clause 16.10(b)(i) or 17.2(a)(ii), require satisfactory security and indemnities for any possible liability and anticipated costs and expenses, from those Bondholders who requested that instruction and/or those who voted in favour of the decision to instruct the Bond Trustee. Any instructions from the Bondholders may be put forward to the Bondholders' Meeting by the Bond Trustee before the Bond Trustee takes any action.

### **18.3 Change of Bond Trustee**

- (a) Change of Bond Trustee shall be carried out pursuant to the procedures set out in Clause 17. The Bond Trustee shall continue to carry out its duties as bond trustee until such time that a new Bond Trustee is elected.
- (b) The fees and expenses of a new bond trustee shall be covered by the Issuer pursuant to the terms set out in Clause 15, but may be recovered wholly or partially from the Bond Trustee if the change is due to a breach by the Bond Trustee of its duties pursuant to the terms of this Bond Agreement or other circumstances for which the Bond Trustee is liable.
- (c) The Bond Trustee undertakes to co-operate so that the new bond trustee receives without undue delay following the Bondholders' Meeting the documentation and information necessary to perform the functions as set out under the terms of this Bond Agreement.

## **19 MISCELLANEOUS**

### **19.1 The community of Bondholders**

By virtue of holding Bonds, which are governed by this Bond Agreement (which pursuant to Clause 2.1 is binding upon all Bondholders), a community exists between the Bondholders, implying, inter alia, that:

- (a) the Bondholders are bound by the terms of this Bond Agreement;
- (b) the Bond Trustee has power and authority to act on behalf of, and/or represent; the Bondholders, in all matters, included but not limited to taking any legal or other action, including enforcement of the Bond Issue and/or any Security, opening of bankruptcy or other insolvency proceedings;
- (c) the Bond Trustee has, in order to manage the terms of this Bond Agreement, access to the Securities Depository to review ownership of Bonds registered in the Securities Depository; and
- (d) this Bond Agreement establishes a community between Bondholders meaning that:

- (i) the Bonds rank pari passu between each other;
- (ii) the Bondholders may not, based on this Bond Agreement, act directly towards the Obligors and may not themselves institute legal proceedings against the Obligors, however not restricting the Bondholders to exercise their individual rights derived from this Bond Agreement;
- (iii) the Obligors may not, based on this Bond Agreement, act directly towards the Bondholders;
- (iv) the Bondholders may not cancel the Bondholders' community; and
- (v) the individual Bondholder may not resign from the Bondholders' community.

## 19.2 Defeasance

- (a) The Issuer may, at its option and at any time, elect to have certain obligations discharged (see Clause 19.2(b)) upon complying with the following conditions ("**Security and Covenant Defeasance**"):
  - (i) the Issuer shall have Irrevocably pledged to the Bond Trustee for the benefit of the Bondholders cash or government bonds accepted by the Bond Trustee (the "**Defeasance Security**") in such amounts as will be sufficient for the payment of principal and interest on the Outstanding Bonds to Final Maturity Date or any other amount agreed between the Parties;
  - (ii) no Event of Default shall have occurred and be continuing on the date of establishment of the Defeasance Security, or insofar as Events of Default from bankruptcy or insolvency events are concerned, at any time during any hardening period applicable to the Defeasance Security (or the relevant period for non-Norwegian companies) or any other date agreed between the Parties;
  - (iii) if the Bonds are secured, the Defeasance Security shall be considered as a replacement of the Security established prior to the Defeasance Security;
  - (iv) the Issuer shall have delivered to the Bond Trustee a certificate signed by its Chief Executive Officer that the Defeasance Security was not made by the Issuer with the intent of preferring the Bondholders over any other creditors of the Issuer or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Issuer or others; and
  - (v) the Issuer shall have delivered to the Bond Trustee any certificate or legal opinion reasonably required by the Bond Trustee regarding the Security and Covenant Defeasance or Defeasance Security, including any certificate or legal opinion on (i) the compliance of the conditions of the Security and Covenant Defeasance, (ii) that the Defeasance Security constitutes a valid, perfected and enforceable Security in favour of the Bond Trustee for the benefit of the Bondholders, which will not be subject to any rights of creditors of the Issuer or any bankruptcy, insolvency, reorganization or similar laws affecting creditors rights generally under the laws of the jurisdiction where the Defeasance Security was established and the corporate domicile of the Issuer, (iii) any relevant tax issues concerning the Bondholders, (iv) any valuation of any

assets or (vii) any other certificate or opinion regarding the Security and Covenant Defeasance or the Defeasance Security.

- (b) Upon the exercise by the Issuer of its option under Clause 19.2(a):
- (i) each Obligor shall be released from its obligations under all provisions in Clause 14, except Clauses 14.2(a), 14.2(e), 14.2(h), 14.2(i) and 14.2(j) or as otherwise agreed;
  - (ii) the Issuer shall not (and shall ensure that all Group Companies shall not) take any actions that may cause the value of the Security created by this Security and Covenant Defeasance to be reduced, and shall at the request of the Bond Trustee execute, or cause to be executed, such further documentation and perform such other acts as the Bond Trustee may reasonably require in order for the Security to remain valid, enforceable and perfected by the Bond Trustee for the account of the Bondholders; and
  - (iii) all other provisions of this Bond Agreement (except (i) – (ii) above) shall remain fully in force without any modifications, or as otherwise agreed.
- (c) All amounts owed by the Issuer hereunder covered by the Defeasance Security shall be applied by the Bond Trustee, in accordance with the provisions of this Bond Agreement, against payment to the Bondholders of all sums due to them under this Bond Agreement on the due date thereof.

Any excess funds not required for the payment of principal, premium and interest to the Bondholders (including any expenses, fees etc. due to the Bond Trustee hereunder) shall be returned to the Issuer.

### **19.3 Limitation of claims**

All claims under the Bonds and this Bond Agreement for payment, including interest and principal, shall be subject to the time-bar provisions of the Norwegian Limitation Act of May 18, 1979 No. 18.

### **19.4 Access to information**

- (a) This Bond Agreement is available to anyone and copies may be obtained from the Bond Trustee or the Issuer. The Bond Trustee shall not have any obligation to distribute any other information to the Bondholders or others than explicitly stated in this Bond Agreement. The Issuer shall ensure that a copy of this Bond Agreement is available to the general public until all the Bonds have been fully discharged.
- (b) The Bond Trustee shall, in order to carry out its functions and obligations under this Bond Agreement, have access to the Securities Depository for the purposes of reviewing ownership of the Bonds registered in the Securities Depository.

### **19.5 Amendments**

All amendments of this Bond Agreement shall be made in writing, and shall unless otherwise provided for by this Bond Agreement, only be made with the approval of all parties hereto.



#### 19.6 Notices, contact information

- (a) Written notices, warnings, summons etc to the Bondholders made by the Bond Trustee shall be sent via the Securities Depository with a copy to the Issuer and the Exchange. Information to the Bondholders may also be published at Stamdata only. Any such notice or communication shall be deemed to be given or made as follows:
  - (i) if by letter via the Securities Depository, when sent from the Securities Depository; and
  - (ii) if by publication on Stamdata, when publicly available.
- (b) The Issuer's written notifications to the Bondholders shall be sent via the Bond Trustee, alternatively through the Securities Depository with a copy to the Bond Trustee and the Exchange.
- (c) Unless otherwise specifically provided, all notices or other communications under or in connection with this Bond Agreement between the Bond Trustee and any Obligor shall be given or made in writing, by letter, e-mail or fax. Any such notice or communication shall be deemed to be given or made as follows:
  - (i) if by letter, when delivered at the address of the relevant Party;
  - (ii) if by e-mail, when received; and
  - (iii) if by fax, when received.
- (d) The Issuer and the Bond Trustee shall ensure that the other party is kept informed of changes in postal address, e-mail address, telephone and fax numbers and contact persons.
- (e) When determining deadlines set out in this Bond Agreement, the following shall apply (unless otherwise stated):
  - (i) If the deadline is set out in days, the first day when the deadline is in force shall not be inclusive, however, the meeting day or the occurrence the deadline relates to, shall be included.
  - (ii) If the deadline is set out in weeks, months or years, the deadline shall end on the day in the last week or the last month which, according to its name or number, corresponds to the first day the deadline is in force. If such day is not a part of an actual month, the deadline shall be the last day of such month.
  - (iii) If a deadline ends on a day which is not a Business Day, the deadline is postponed to the next Business Day.

#### 19.7 Dispute resolution and legal venue

- (a) This Bond Agreement and all disputes arising out of, or in connection with this Bond Agreement between the Bond Trustee, the Bondholders and any Obligor, shall be governed by Norwegian law.

- (b) All disputes arising out of, or in connection with this Bond Agreement between the Bond Trustee, the Bondholders and any Obligor, shall, subject to paragraph (c) below, be exclusively resolved by the courts of Norway, with the District Court of Oslo as sole legal venue.
- (c) This Clause 19.7 is for the benefit of the Bond Trustee only. As a result, the Bond Trustee shall not be prevented from taking proceedings relating to a dispute in any other courts with jurisdiction. To the extent allowed by law, the Bond Trustee may take concurrent proceedings in any number of jurisdictions.

#### **19.8 Process Agent**

The Issuer shall, prior to the Issue Date, nominate a process agent in Norway for the purpose of serving a writ of summons and/or any other act of process in respect of the courts in Norway, or any notices as set out in this Bond Agreement.

\*\*\*\*\*



This Bond Agreement has been executed in two originals, of which the Issuer and the Bond Trustee retain one each.

For and behalf of  
**EXMAR NETHERLANDS BV**  
as Issuer

For and behalf of  
**NORDIC TRUSTEE ASA**  
as Bond Trustee

Signature

Signature

Name with capital letters

Name with capital letters

Title

Title

For and behalf of  
**EXMAR NV**  
as Parent and Guarantor

Signature

Signature  
Name with capital letters

Title

Signature

Signature  
Name with capital letters

Signature  
Title


This Bond Agreement has been executed in two originals, of which the Issuer and the Bond Trustee retain one each.

For and behalf of  
**EXMAR NETHERLANDS BV**  
as Issuer

For and behalf of  
**NORDIC TRUSTEE ASA**  
as Bond Trustee

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature



Vivian Trøsch  
Attorney-at-Law

\_\_\_\_\_  
Name with capital letters

\_\_\_\_\_  
Name with capital letters

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

For and behalf of  
**EXMAR NV**  
as Parent and Guarantor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name with capital letters

\_\_\_\_\_  
Title

COMPLIANCE CERTIFICATE

NORDIC TRUSTEE ASA  
P.O. Box 1470 Vik  
N-0116 Oslo  
Norway  
Fax: + 47 22 87 94 10  
E-mail: mail@trustee.no

[date]

Dear Sirs,

**FRN EXMAR NETHERLANDS BV SENIOR UNSECURED BOND ISSUE 2014/2017 - ISIN 001 0714512**

We refer to the Bond Agreement for the abovementioned Bond Issue made between Nordic Trustee ASA as Bond Trustee on behalf of the Bondholders, and the undersigned as Parent under which a Compliance Certificate shall be issued. This letter constitutes the Compliance Certificate for the period [PERIOD].

Capitalised terms used herein shall have the same meaning as in the Bond Agreement.

With reference to Clause 14.3 we hereby certify that:

1. all information contained herein is true and accurate and there has been no change which would have a Material Adverse Effect on the financial condition of the Issuer since the date of the last accounts or the last Compliance Certificate submitted to you;
2. the covenants set out in Clauses 14 are satisfied;
3. in accordance with Clause 14.13 (a) the Free Cash is as of [date] USD XX;
4. in accordance with Clause 14.13 (b) the Equity Ratio is as of [date] XX %;
5. in accordance with Clause 14.13 (c) the Equity is as of [date] USD XX;
6. in accordance with Clause 14.13 (d) the Interest Coverage Ratio is as of [date] XX; and
7. In accordance with Clause 14.13 (e) the Working Capital is as of [date] XX.

Copies of our latest consolidated Financial Statements are enclosed.

Yours faithfully,

EXMAR NV

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Name of authorized person

Enclosure: [copy of any written documentation]

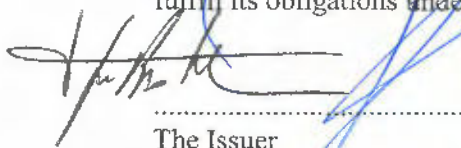
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## Addendum 2nd Tranche

1. Pursuant to the agreement related to the bond issue mentioned below (the "Bond Agreement"), the Issuer and the Bond Trustee have entered into the following addendum (the "Addendum") as regards the issuing of an additional tranche under the Bond Issue:

Issuer:	Exmar Netherlands BV
Bond Trustee:	Nordic Trustee ASA
ISIN:	NO 001 0714512
Maximum amount:	NOK 1,000,000,000
The Bond is an open issue up to:	Five Business Days prior to Final Maturity Date, cf. the Bond Agreement, Clause 2.4.
The Bond is increased with:	NOK 300,000,000
Amount under the Bond issued after the increase:	NOK 1,000,000,000
Date of Addendum:	[date] May 2015
Issue Date:	12 May 2015

2. Words and expressions in this Addendum shall have the same meaning as under the Bond Agreement. The Bond Agreement and the Addendum shall be read and understood as a whole.
3. Pursuant to of the Bond Agreement the provisions of the Bond Agreement will apply to any subsequent tranches issued under the open issue and the rights and obligations of all parties apply also for later issues made within the maximum amount under the Bond Issue.
4. Disbursement of the second Tranche of the Bond Issue are subject to the Bond Trustee having received the documents set out in of the Bond Agreement, and the Bond Trustee assumes that said documents and representations and warranties, still are valid, binding and correct as if they were submitted at the Issue Date of the second Tranche. If any changes have occurred in the relevant documents, including Articles of Association, certificate of registration, authorisations and other documents, the Issuer undertakes, on its own initiative, to forward in reasonable time before Issue Date updated documents. The Bond Trustee is entitled to accept a delay in receiving documents.
5. The Issuer represents and warrants that with the exception of any circumstances made public by the Issuer, no circumstances have occurred including any litigation pending or threatening which would have an adverse material effect on the Issuer's financial situation or ability to fulfill its obligations under the Bond Agreement.

  
.....  
The Issuer

  
.....  
The Bond Trustee

This Addendum has been executed in two copies (originals), of which the Issuer and the Bond Trustee keep one each.