

Denne melding til obligasjonseierne er kun utarbeidet på engelsk. For informasjon vennligst kontakt Nordic Trustee ASA

## To the bondholders in:

**ISIN: NO 001 064082.4 - 13 per cent. OSX 3 Leasing B.V. Senior Secured Callable Bond Issue 2012/2015**

Oslo, 6 October 2016

## Summons to Bondholders' Meeting

### INTRODUCTION

Nordic Trustee ASA, (formerly known as Norsk Tillitsmann ASA) (the "**Bond Trustee**") acts as bond trustee for the holders of the 13 per cent. OSX 3 Leasing B.V. Senior Secured Callable Bond Issue 2012/2015 (the "**Bonds**" and holders thereof, the "**Bondholders**") issued by OSX 3 Leasing B.V. (the "**Issuer**" or "**OSX3**") and guaranteed by OSX Brasil S.A., OSX 3 Holding B.V. and OSX Leasing Group B.V. (together, the "**Guarantors**").

All capitalised terms used but not otherwise defined herein shall have the meanings assigned to them in either (i) the amended and restated bond agreement for the Bonds (the "**Bond Agreement**") between, amongst others, OSX3 and the Bond Trustee dated 12 September 2014 (as amended and restated from time to time), or (ii) the summons dated 16 December 2014 (the "**December 2014 Summons**").

The Bond Trustee has, in consultation with its legal and financial advisers (the "**Bondholder Advisers**"), been liaising with an ad hoc committee of Bondholders who together represent in excess of 66 <sup>2</sup>/<sub>3</sub>% of the Outstanding Bonds (the "**Committee**") with respect to various issues that are described in further detail below. The members of the Committee have indicated to the Bond Trustee that they are supportive of the proposal set out in section 3 below (the "**Proposal**").

This summons (the "**Summons**") is being issued at the request of Bondholders holding more than 1/10 of the Outstanding Bonds.

Bondholders are encouraged to read this Summons in its entirety.

### BOND TRUSTEE FUNDING

Pursuant to the December 2014 Summons, the Issuer convened a Bondholders' Meeting on 23 December 2014 (the "**December 2014 Bondholders' Meeting**") and subsequently the Bond Trustee (on behalf of the Bondholders) has been implementing the resolutions approved at the December 2014 Bondholder's Meeting. The Bond Trustee has been continuing to take steps to protect the interests of the Bondholders, including: (i) pursuing certain litigation in Brazil and the UK; (ii) appointing independent directors to the Issuer; (iii) assisting in meeting the corporate costs of the Issuer, in particular related to maintaining the appointment of the independent directors, (iv) arranging and funding insurance for the FPSO; and (v) meeting the costs of the Dutch suspension of payments

---

proceedings for the Issuer. This has involved the Bond Trustee utilising the Segregated Funds and amounts standing to the credit of the Retention Account Fund towards these costs. A summary of the current status of matters relevant to the FPSO and the matters referred to in this Summons are set out in more detail at Appendix 1 (the “**Background**”).

#### Critical Payments

Further to the December 2014 Summons, certain costs that are critical to protecting the interests of the Bondholders have been, or are currently being, paid out of the Segregated Funds Account, and the Retention Account Funds (together the “**Accounts**”) (the “**Critical Payments**”). The amounts standing to the credit of the Accounts are now largely depleted and further funding is needed to allow continued activity to preserve the value of the FPSO and otherwise protect the interests of the Bondholders.

#### New Funding

In order for Critical Payments to continue to be made, Bondholders will need to provide further funding to OSX3. To this end, it is contemplated that a newly incorporated Cayman special purpose vehicle will issue new bonds, in an aggregate amount of up to USD 7,000,000 (the “**New Bonds**”). It is intended that the proceeds from the New Bonds, will first be used to meet the Running Costs (as defined below) and will thereafter immediately be on-lent to Nordic Trustee ASA in its capacity as Bond Trustee under the Bonds (for and on behalf of the Bondholders) (the “**On-Loan**”). The Bond Trustee will use the proceeds of the On-Loan to (i) repay the Bridge Funding and the Additional Funding (each as defined below) together with accrued interest thereon and (ii) provide funding for the purpose of maximising recoveries under the Bonds, as the Bond Trustee may reasonably determine. “**Running Costs**” means the proceeds of the New Bonds retained by the Issuer to meet: (i) its own fees, costs and expenses and (ii) the fees, costs and expenses of the New Bond Trustee.

All Bondholders will be entitled to participate in the New Bonds, subject to a Bondholder providing evidence, on the Business Day immediately prior to subscription, of their current holdings of the Bonds. Members of the Bondholder Committee have, in advance of this Summons, pre-subscribed for a certain amount of the New Bonds. Each Bondholder will be invited to subscribe for New Bonds in the amount equal or up to 1.3559% if USD7,000,000 bonds are issued or 1.1622% if USD6,000,000 bonds are issued (the “**Subscription Amount**”) of the face amount of Bonds currently held by the subscribing Bondholder, subject to a minimum subscription of USD 200,000. The allocation of New Bonds shall be always subject to the discretion of the Manager and in accordance with paragraph 15 of the Term Sheet (as defined below). The invitation to participate in the New Bonds will be open from 6 October 2016 to 20 October 2016 inclusive.

The New Bonds shall be issued on the terms set out in the funding term sheet attached at Appendix 2 (the “**Term Sheet**”) and an intercreditor agreement shall be entered into between the issuer of the New Bonds, the Bond Trustee and the New Bond Trustee (the “**Intercreditor Agreement**”). The Intercreditor Agreement will provide that any proceeds received by the Bond Trustee from the realisation of the Security Interests under the Security Documents pursuant to the Bond Agreement or any other proceeds realised in respect of the Bonds will be applied in discharge of (i) the fees, costs and expenses of the Bond Trustee and New Bond Trustee and; (ii) amounts due under the New Bonds before payment in redemption of the Existing Bonds (the “**Turnover**”). The Bondholders shall have no right of subrogation or other claims against the issuer of the New Bonds as a result of the Turnover arrangements. A substantially finalised draft of the Intercreditor Agreement is attached at Appendix 3.

#### Bridge Funding

---

As described in the Bondholder Summons dated 8 July 2016 certain Bondholders provided the Bond Trustee with emergency bridge funding in an aggregate amount of USD 1,750,000 to allow the Bond Trustee to meet certain costs and expenses incurred by it or to be incurred by it in connection with the Bonds (the “**Bridge Funding**”). The Bridge Funding was needed to ensure protective measures could continue to be taken by the Bond Trustee whilst steps are taken to issue the New Bonds. An additional USD 2,000,000 will be advanced under the Bridge Funding to meet certain urgent costs and such additional amount will also accrue interest at a rate of 35% per annum and to be paid on a priority basis out of Bond recoveries (the “**Additional Bridge Funding**”).

Part of the proceeds from the New Bonds will be used to repay the Bridge Funding and Additional Bridge Funding.

Members of the Bondholder Committee representing more than 2/3 of the Bonds, have already approved and committed to subscribe for the full amount of the New Bonds.

Interested Bondholders may notify their subscription interest to the Pareto Securities by sending a request, together with evidence of their current holdings of the Bonds (specifying the beneficial owner) to [staale.hellesjo@paretosec.com](mailto:staale.hellesjo@paretosec.com), by way of email. Pareto Securities AS acts solely as settlement agent in respect of the New Bonds and shall have no liability in respect of any statements or descriptions contained in this Summons and its appendixes. Further information regarding the New Bonds and final drafts of the bond agreement for the New Bonds (the “**New Bond Agreement**”) shall be available for Bondholders by request to James Terry ([james.terry@akingump.com](mailto:james.terry@akingump.com)) or Liz Osborne ([liz.osborne@akingump.com](mailto:liz.osborne@akingump.com)).

## **PROPOSAL**

Based on the foregoing, the Bondholders are asked to approve the following proposal:

*“The Bond Trustee is authorised and instructed to:*

1. *Approve the issuance of the New Bonds substantially on the terms as set out in the Term Sheet or any amendment and take any such steps and enter into any such documentation which may be necessary to implement the transactions contemplated by the Term Sheet, including but not limited to, the Intercreditor Agreement and the New Bond loan agreement;*
2. *Repay the Additional Bridge Funding on a priority basis out of recoveries under the Bonds, in accordance with its terms, including with respect to the 35% per annum interest rate.*
3. *Enter into the On-Loan for and on behalf of the Bondholders substantially on the terms set out in the Intercreditor Agreement;*
4. *Carry out and implement the Turnover Mechanism substantially on the terms set out in the Intercreditor Agreement; and*
5. *Enter into and execute any such other agreements, letters, powers of attorney, deeds and/or notices as may be necessary or advisable (in the absolute discretion of the Bond Trustee) in order to implement proposals 1-3 above.”*

## **EVALUATION OF THE PROPOSAL**

---

The request is put forward to the Bondholders without further evaluation or recommendations from the Bond Trustee. The Bondholders must independently evaluate whether the proposed changes are acceptable.

**Bondholders' meeting:**

Bondholders are hereby summoned to a Bondholders' meeting (the "**Bondholders' Meeting**"):

**Time:** 20 October 2016 at 13:00 hours (Oslo time)  
**Place:** The premises of Nordic Trustee ASA,  
Haakon VII's gt 1, 0161 Oslo - 6th floor

**Agenda:**

1. Approval of the summons.
2. Approval of the agenda.
3. Election of two persons to co-sign the minutes together with the chairman.
4. Request for adoption of proposal:

**It is proposed that the Bondholders' meeting resolve the following:**

*"The Bond Trustee is authorised and instructed to:*

1. *Approve the issuance of the New Bonds substantially on the terms as set out in the Term Sheet or any amendment and take any such steps and enter into any such documentation which may be necessary to implement the transactions contemplated by the Term Sheet, including but not limited to, the Intercreditor Agreement and the New Bond Agreement;*
2. *Repay the Additional Bridge Funding on a priority basis out of recoveries under the Bonds, in accordance with its terms, including with respect to the 35% per annum interest rate.*
3. *Enter into the On-Loan for and on behalf of the Bondholders substantially on the terms set out in the Intercreditor Agreement;*
4. *Carry out and implement the Turnover Mechanism substantially on the terms set out in the Intercreditor Agreement; and*
5. *Enter into and execute any such other agreements, letters, powers of attorney, deeds and/or notices as may be necessary or advisable (in the absolute discretion of the Bond Trustee) in order to implement proposals 1-3 above."*

**To approve the above resolution, Bondholders representing at least 2/3 of the Bonds represented in person or by proxy at the meeting must vote in favour of the resolution. In order to have a quorum, at least 5/10 of the voting Bonds must be represented at the meeting.**

---

Please find attached a Bondholder's Form from the Securities Depository (VPS), indicating your bondholding at the printing date. The Bondholder's Form will serve as proof of ownership of the Bonds and of the voting rights at the bondholders' meeting. (If the bonds are held in custody - i.e. the owner is not registered directly in the VPS - the custodian must confirm; (i) the owner of the bonds, (ii) the aggregate nominal amount of the bonds and (iii) the account number in VPS on which the bonds are registered.)

The individual bondholder may authorise Nordic Trustee to vote on its behalf, in which case the Bondholder's Form also serves as a proxy. A duly signed Bondholder's Form, authorising Nordic Trustee to vote, must then be returned to Nordic Trustee in due time before the meeting is scheduled (by scanned e-mail, telefax or post – please see the first page of this letter for further details).

In the event that Bonds have been transferred to a new owner after the Bondholder's Form was made, the new Bondholder must bring to the Bondholders' meeting or enclose with the proxy, as the case may be, evidence which Nordic Trustee accepts as sufficient proof of the ownership of the Bonds.

For practical purposes, we request those who intend to attend the bondholders' meeting, either in person or by proxy other than to Nordic Trustee, to notify Nordic Trustee by telephone or by e-mail ([www.mail@trustee.no](mailto:www.mail@trustee.no)) within 16:00 hours (4 pm) (Oslo time) the Business Day before the meeting takes place.



Yours sincerely  
**Nordic Trustee ASA**

Enclosed: Bondholder's Form

---

Appendix 1  
Background Information

## **Appendix 1 Background Information**

### OSX3 Suspension of Payments

On 27 August 2015 OSX Construção Naval S.A. (“**OSX Naval**”) applied to the District Court of Amsterdam to file OSX3 for bankruptcy. On 3 November 2015 the District Court of Amsterdam (after a hearing in which OSX3 opposed the application) decided to dismiss OSX Naval’s application. On 31 December 2015, the District Court of Amsterdam granted provisional suspension of payments (“**Suspension of Payments**”) status to OSX3 and appointed Mr. W.J.P. Jongepier of Boekel as administrator (the “**Administrator**”) and Mr. W.F. Korthals Altes as supervisory judge (the “**SJ**”).

A Suspension of Payments creates a limited stay on ordinary creditors. It does not affect secured and preferential creditors (such as the Bondholders). Whilst in a Suspension of Payments OSX3 can, acting by its directors and with the consent of the administrator, (i) seek financing, (ii) bind OSX3, and (iii) dispose of OSX3’s assets.

During a Suspension of Payments, a composition plan may be approved by a simple majority of the recognised and admitted ordinary creditors representing not less than one half of the recognised admitted claims, and after approval by the SJ, will be binding on all ordinary creditors.

Both OSX3 and the Administrator have since written to the supervisory judge requesting an extension to the Suspension of Payments. On 8 March the supervisory judge agreed to an extension, setting a new hearing date for 17 November 2016.

### The FPSO and Tubarão Martelo Field

The FPSO is owned by OSX3 and is subject to the Charter Contract (as amended). OGX is the Charterer under the Charter Contract and OGX remains in Payment Default under the Charter Contract (as described in the December 2014 Summons). The FPSO remains located in Brazilian waters and connected to the ocean bed on the Tubarão Martelo field.

In accordance with its obligations under the Charter Contract, OGX, as Charterer, remains liable for the charter rates, the maintenance, redelivery, disconnection and compliance with environmental law costs in relation to the FPSO.

According to an Óleo E Gás Participações S.A. and OGX Petróleo E Gás S.A. – Em Recuperação Judicial (“**OGPar**”) material fact dated 7 March 2016, OGX temporarily halted Tubarao Martelo field output around this date. Subsequently, however, production was commenced at Tubarao Martelo during July 2016.

### OGX Financial Position

OGX remains in a state of Brazilian judicial recovery, reflecting its precarious financial state. Considering this state of affairs, the Bond Trustee is conscious of (i) its duty to protect the rights and interests of the Bondholders, and (ii) its need to preserve the value of the FPSO. Therefore,

the Bond Trustee has been continuing to take steps to protect the interests of the Bondholders, including: (i) pursuing certain litigation in Brazil and the UK; (ii) appointing independent directors to the Issuer; (iii) assisting in meeting the corporate costs of the Issuer, in particular related to maintaining the appointment of the independent directors, (iv) arranging and funding insurance for the FPSO; and (v) meeting the costs of the Dutch suspension of payments proceedings for the Issuer. This has involved the Bond Trustee utilising the Segregated Funds and amounts standing to the credit of the Retention Account Fund towards these costs.

#### Court of São Paulo appeal in respect of Banco BTG Pactual S/A Cayman Branch (“BTG”) petition

BTG is a creditor of OSX3 with its claim based on the guarantee it provided in relation to OSX3’s obligations to pay the FPSO ‘vessel builder’ under the EPCI contract entered into to ‘build’ the FPSO (the “**BTG Claim**”). With respect to the BTG Claim, BTG has obtained an attachment on the FPSO from the Brazilian Court. Such attachment prevents the FPSO from leaving Brazilian waters.

The Bond Trustee has been pursuing an interlocutory appeal against BTG filed before the 13th Panel for Private Law of the Court of Appeals of the State of Sao Paulo (the “**Court**”). Such appeal concerns BTG’s petition disputing the validity and effectiveness of the Liberian mortgage that NT holds on the FPSO (the “**Petition**”). On February 3, 2016, the Court unanimously dismissed the Bond Trustee’s interlocutory appeal (the “**Dismissal**”) ruling that it did not recognize the validity or effectiveness of the Liberian mortgage (the “**Mortgage**”) on the FPSO.

In response to the Dismissal, the Brazilian counsel filed a motion for clarification to the Court (the “**Motion**”). Such Motion was dismissed by the Court. Brazilian counsel filed a special appeal to the Superior Court of Justice concerning the dismissal of the Motion in order to further challenge the decision. The Court rendered a decision denying permission to appeal and the Brazilian counsel has filed an interlocutory appeal against such decision. The Bond Trustee is currently considering additional options available to it.

#### Attachment over the FPSO

In order to protect the position of the Bondholders, NT applied for an enforcement action against OSX3 in Brazil on 24 June 2016 to secure an attachment over the FPSO. NT was awarded an attachment over the FPSO by the enforcement court on 23 September 2016.

#### Discussions with BTG

Discussions between the Administrator, Bondholder Advisers and BTG in respect of the Petition and the BTG Claim against the FPSO have resulted in a settlement of this matter. Should Bondholders require further information regarding the settlement, they should contact the Bond Trustee ([Andersen@nordictrustee.com](mailto:Andersen@nordictrustee.com)), Akin Gump ([Liz.Osborne@akingump.com](mailto:Liz.Osborne@akingump.com)) or BA-HR ([mormo@bahr.no](mailto:mormo@bahr.no)).

### Discussion with OGX

Since February 2016, the Administrator and Bondholder Advisers have been in discussions with other creditors of OGX to see whether a consensual solution can be reached which would facilitate the ongoing Charter of the Vessel to OGX on the Tubarão Martelo field together with certain accommodations given to the Bondholders. It is expected that if a settlement is reached, a further Bondholder summons will be circulated setting out the terms of the proposed settlement.

### OSX Personnel Changes

OSX3 has hired Mr. Allan Millmaker as a consultant to support OSX3 management in the eventual disconnection and decommissioning of the FPSO. Mr. Millmaker has significant experience and expertise in this area given his previous involvement in the OSX-1 disconnection and layup project and the decommissioning planning for the Tubarao Azul Field.

One of the three independent directors of OSX3 has now left the OSX3 board. Going forward, OSX3 will be managed by two independent directors with assistance from Allan Millmaker and additional administrative support.

---

Appendix 2  
Term Sheet

NEW FUNDING TERM SHEET

**1. INTRODUCTION**

- 1.1 This indicative term sheet (the “**Term Sheet**”) sets out the proposed terms of new bonds (the “**New Bonds**”) to be issued by a newly incorporated Cayman entity as “**Issuer**”. The holders of the New Bonds, from time to time, shall be referred to as the “**New Bondholders**”. Nordic Trustee ASA shall act as the bond trustee of the New Bonds (the “**New Bond Trustee**”).
- 1.2 This Term Sheet has been prepared for discussion purposes only and has not been formally approved by the New Bond Trustee or any New Bondholders. As such it does not, and is not intended to create any legally binding obligation between any parties.

**2. BACKGROUND**

- 2.1 OSX 3 Leasing B.V. (“**OSX3**”) has issued the 13 per cent OSX 3 leasing B.V. Senior Secured Callable Bond Issue 2012/2015 with ISIN NO 001 064082.4 with respect to which Nordic Trustee ASA acts as bond trustee (the “**Existing Bond Trustee**”) (the “**Existing Bonds** and holders thereof, the “**Existing Bondholders**”) pursuant to an amended and restated bond agreement dated 12 September 2014 (the “**Existing Bond Agreement**”).
- 2.2 Due to the current cash flow situation, funding will need to be provided to OSX3 to meet short term liquidity requirements and to ensure the continued protection of the interests of the Existing Bondholders. To this end, the Issuer will issue the New Bonds, on the terms set out below and then the Issuer will immediately on-lend the proceeds of the New Bonds, less the Running Costs (as defined below) to the Existing Bond Trustee (on behalf of the Existing Bondholders) for the purposes of securing recovery to the Existing Bondholders (which, in turn, will maximise recoveries for the New Bonds by virtue of the Turnover mechanism, as defined below).

**PRIVILEGED AND CONFIDENTIAL**

**3. PROPOSED TERMS AND CONDITIONS OF NEW BONDS**

1.	<b>Issuer</b>	A Cayman Islands incorporated special purpose vehicle (the “ <b>Issuer</b> ”)
2.	<b>Owner</b>	The owner of the Vessel is OSX3 Leasing B.V.
3.	<b>Currency</b>	USD.
4.	<b>Loan Amount</b>	Initial amount of USD 6,000,000 or USD 7,000,000 at the discretion of the Issuer (the “ <b>Loan Amount</b> ”) as detailed in a loan agreement (the “ <b>New Bond Loan Agreement</b> ”) with the ability to issue further Bonds in an additional principal face amount of USD15,000,000 by way of a tap issue on the same terms as the New Bonds.
5.	<b>Issue Price</b>	The New Bonds will be issued at par.
6.	<b>Interest Rate</b>	A 35% annual rate payable on each anniversary of the issue date and on the Maturity Date. Default interest shall not accrue on the Bonds.
7.	<b>Limited-Recourse</b>	The New Bonds will be issued on a limited-recourse basis. Unless and until either (i) the Vessel (as defined below) is or (ii) the shares in the Owner or another owner of the Vessel are owned by the Issuer (or a subsidiary of the Issuer), the New Bonds will only have recourse against funds recovered under the Existing Bonds pursuant to the Intercreditor Agreement and any remaining Running Costs (each as defined below).
8.	<b>Bond Trustee</b>	Nordic Trustee ASA, Postboks 1470 Vika, 0116 Oslo (the “ <b>New Bond Trustee</b> ”).
9.	<b>Settlement Date</b>	The Settlement Date for the New Bonds shall be 27 October 2016.
10.	<b>Purpose</b>	An amount equal to USD 300,000 from the proceeds of the New Bonds will be retained by the Issuer to meet (i) its own fees, costs and expenses; and (ii) the fees, costs and expenses of the New Bond Trustee (the “ <b>Retained Amount</b> ”). The balance of the net proceeds from the New Bonds shall be immediately on-lent to the Existing Bond Trustee to be used: to (i) repay the Bridge Funding (as defined in the bond summons issued in connection with the New Bonds dated 8 July 2016 in accordance with its terms) including any increased amount which may have been provided subsequent to the provision of the initial Bridge Funding; and (ii) for the purpose of maximising recoveries under the Existing Bonds (including the payment of fees, costs and expenses of the Existing Bond Trustee and its advisors), as the Existing Bond Trustee may determine, together (the “ <b>Purpose</b> ”).
11.	<b>Nominal Value</b>	The New Bonds will have a nominal value of USD1.00 each.
12.	<b>Prepayment</b>	The New Bonds shall be callable by the Issuer at any time, in full but not in part, at 100% of principal face amount, plus any accrued interest.
13.	<b>Maturity Date</b>	The Maturity Date for the New Bonds shall be two years after the Settlement

**PRIVILEGED AND CONFIDENTIAL**

		Date.
14.	<b>Security</b>	If the Issuer or its subsidiary acquires either (i) the OSX-3 FPSO (the “ <b>Vessel</b> ”) (ii) the shares in the Owner or another owner of the Vessel the Issuer or its subsidiary (as applicable) shall, if required by the New Bond Trustee, grant (i) a share pledge of the shares in the Owner or another owner of the Vessel owned by the Issuer; (ii) a mortgage over the Vessel and (iii) an assignment of any related insurances and charter cashflows and (iii) other market standard security e.g. earnings accounts as may be requested by the New Bond Trustee (the “ <b>Security</b> ”).
15.	<b>Participation in New Bonds</b>	<p>The Issuer shall offer New Bonds to the Existing Bondholders. Each Existing Bondholder may subscribe for an amount of New Bonds equivalent to 1.3559% if USD 7,000,000 bonds are issued or 1.1622% if USD 6,000,000 bonds are issued of the face value of its respective holding of Existing Bonds on the Business Day immediately prior to the date of its subscription for the New Bonds (the “<b>Right to Purchase</b>”) subject to a minimum subscription of USD 200,000 (the “<b>Minimum Subscription Amount</b>”). If an Existing Bondholder’s Right to Purchase entitlement to subscribe for New Bonds is an amount which is less than USD 200,000, then that Existing Bondholder’s Right to Purchase shall be increased so that it may subscribe for New Bonds in the amount of USD 200,000.</p> <p>The Right to Purchase shall be subject to each Existing Bondholder providing evidence of its holding of the Existing Bonds on the Business Day immediately prior to its subscription for the New Bonds, specifying the details of the beneficial owner of the Existing Bonds.</p> <p>The Right to Purchase shall be available to Existing Bondholders for a period up until ten business days after the Bondholder’s Meeting convened to approve the issue of the New Bonds (as described in the section on Bondholders’ Meeting) (the “<b>Expiry Date</b>”).</p> <p>Over subscriptions are permitted, however if the total subscriptions for the New Bonds results in an aggregate subscription amount in excess of the Loan Amount, Existing Bondholders who have a Right to Purchase entitlement exceeding USD 200,000 shall have their Right to Purchase amount reduced pro rata amongst each other so that the total value of subscriptions equals the Loan Amount.</p> <p>The Manager shall have an absolute discretion in deciding the allocation of the New Bonds to the Bondholders who subscribe for a portion of the New Bonds above their Right to Purchase amount, including those Bondholders whose Right to Purchase amount has been increased due to the Minimum Subscription Amount. The Manager shall take into account the following considerations in determining such distributions:</p> <p>(a) primarily, the relative amounts of Bonds held by those Bondholders; and</p> <p>(b) secondarily, the relative amounts of New Bonds that those Bondholders have subscribed for above their Right to Purchase amount.</p>
16.	<b>Governance of Issuer</b>	The Issuer is a special purpose vehicle established in the Cayman Islands .The Issuer’s sole shareholder will be Estera Trust Limited (“ <b>Estera</b> ”) and it will have a minimum of two directors provided by Estera.
17.	<b>Intercreditor</b>	An Intercreditor Agreement shall be entered into between the Issuer, the Existing

PRIVILEGED AND CONFIDENTIAL

	<p><b>Agreement</b></p>	<p>Bond Trustee and the New Bond Trustee.</p> <p>The Intercreditor Agreement will provide that: (i) any proceeds received by the Existing Bond Trustee from the realisation of secured assets under the existing security granted in connection with the Existing Bonds; (ii) any other proceeds realised in respect of the Existing Bonds; and (iii) any proceeds of the New Bonds held by the Existing Bond Trustee and not otherwise reasonably required by the Existing Bond Trustee to meet liabilities incurred in connection with the Purpose, shall be applied first to meet the fees, costs and expenses of the Existing Bond Trustee and New Bond Trustee and thereafter in repayment of amounts outstanding under the New Bonds so that all New Bonds and outstanding amounts under the New Bonds shall be redeemed in full prior to any payments being made to the Existing Bondholders under the Existing Bond Agreement (the “Turnover”).</p> <p>The Turnover mechanism will apply only to the initial US\$7,000,000 Loan Amount such that an Existing Bondholder resolution and an amendment to the Intercreditor Agreement will be needed for the Turnover mechanism to apply to any New Bonds issued pursuant to a tap issue after the Issue Date.</p> <p>The Intercreditor Agreement will also record that the New Bond proceeds, less the Running Costs, will be on-lent to the Existing Bond Trustee (for and on behalf of the Existing Bondholders) and record the fact that the Turnover mechanism will operate to discharge this loan in an equivalent amount.</p> <p>For the avoidance of doubt, once all amounts outstanding under the New Bonds are discharged, any balance realised with respect to the Existing Bonds will be applied in discharge of the Existing Bonds in accordance with the Existing Bond Agreement.</p> <p>The Existing Bondholders shall have no right of subrogation or other claims against the Issuer as a result of the Turnover.</p>
<p>18.</p>	<p><b>Conditions Precedent</b></p>	<p><u>Conditions Precedent for Settlement of the New Bonds:</u></p> <p>Disbursement of the net proceeds of the New Bonds will be subject to certain conditions precedent customary for these types of transactions, including (but not limited to):</p> <ul style="list-style-type: none"> <li>(i) the New Bond Loan Agreement duly executed;</li> <li>(ii) an agreement between the New Bond Trustee and the Issuer related to expenses and fees duly executed;</li> <li>(iii) the Intercreditor Agreement duly executed;</li> <li>(iv) certified copies of necessary corporate resolutions of the Issuer to execute the New Bond Loan Agreement;</li> <li>(v) legal opinions in respect of the New Bond Loan Agreement in form and substance satisfactory to the New Bond Trustee.</li> <li>(vi) a Bondholders’ meeting of the Existing Bondholders held in order to approve the terms of this Term Sheet (the “<b>Bondholders’ Meeting</b>”) and Existing Bondholders representing at least 66 2/3% of the Existing Bonds</li> </ul>

**PRIVILEGED AND CONFIDENTIAL**

		<p>must approve the resolution.</p> <p>Items (ii) to (vi) being the “<b>Finance Documents</b>”.</p>
19.	<b>Release of Funds</b>	<p>On disbursement to it, the Issuer will retain an amount equal to the Running Costs and lend the balance of the net proceeds from the New Bonds to the Existing Bond Trustee (for and on behalf of the Existing Bondholder) for the Purpose.</p>
20.	<b>Manager</b>	<p>Pareto Securities AS, acting as settlement agent only</p>
21.	<b>Loan Agreement</b>	<p>The New Bond Loan Agreement shall be entered into by the Issuer and the New Bond Trustee.</p> <p>The New Bond Loan Agreement shall regulate the New Bondholders’ rights and obligations with respect to the New Bonds. If any discrepancy should occur between this Term Sheet and the New Bond Loan Agreement, then the New Bond Loan Agreement shall prevail.</p>
22.	<b>Costs</b>	<p>The following costs and expenses shall, to the extent not paid by a third party, be borne by the Issuer: the costs of professional advisers incurred by the New Bond Trustee and the Existing Bond Trustee relating to (i) this Term Sheet, and (ii) the Finance Documents.</p>
23.	<b>Governing Law</b>	<p>Norwegian law and Norwegian courts (as the competent legal venue for the New Bond Trustee).</p>

---

Appendix 3  
Draft Intercreditor Agreement

**INTERCREDITOR AGREEMENT**

Dated [ ] 2016

Between

**Nordic Trustee ASA**

**for itself and on behalf of the Original Bondholders**

**(the “Original Bond Trustee”)**

**Nordic Trustee ASA**

**for itself and on behalf of the New Bondholders**

**(the “New Bond Trustee”)**

and

**OSX3 Cayman Limited**

**(the “New Bond Issuer”)**

**THIS INTERCREDITOR AGREEMENT** (the “**Intercreditor Agreement**”) is made on [●] 2016 between:

1. Nordic Trustee ASA for itself and on behalf of the Original Bondholders (the “**Original Bond Trustee**”);
2. Nordic Trustee ASA for itself and on behalf of the New Bondholders (the “**New Bond Trustee**”); and
3. OSX3 Cayman Limited, in its capacity as the new issuer under the New Bond Loan Agreement (the “**New Bond Issuer**”).

**BACKGROUND:**

- (A) Pursuant to the Original Bond Loan Agreement, OSX3 Leasing B.V. (as “**Original Bond Issuer**”) issued the Original Bonds, subject to the terms and conditions set out therein.
- (B) On 2 October 2014, the Original Bond Trustee declared an outstanding Event of Default (as defined in the Original Bond Loan Agreement) under the Original Bond Loan Agreement. On 16 March 2015, the Original Bond Trustee accelerated the Original Bonds.
- (C) In order (i) to fund the continued operations of the Original Bond Issuer, and (ii) for the Original Bond Trustee to continue to take steps to protect the interests of the Original Bondholders and preserve the value of the FPSO, the New Bond Issuer has issued New Bonds up to a maximum aggregate amount of USD [6,000,000/7,000,000] pursuant to a bond loan agreement dated on or about the date hereof (the “**New Bond Loan Agreement**”).
- (D) It is intended that the net proceeds from the New Bonds issued pursuant to the New Bond Loan Agreement issuance will be used to (i) meet the Running Costs (as defined below); and (ii) make a loan to the Original Bond Trustee (for and on behalf of the Original Bondholders) (the “**On-Loan**”).
- (E) The Original Bond Trustee will use the proceeds of the On-Loan to (i) repay the Bridge Funding together with any accrued interest; and (ii) provide funding for the Purpose.
- (F) The parties have agreed to enter into this Intercreditor Agreement in order to set out the rights and obligations of the Original Bond Trustee, the New Bond Trustee and the New Bond Issuer with respect to the (i) recovery of any proceeds and realisations under the Original Bonds, and (ii) the distribution of proceeds of enforcement of Original Bond Security Interests.

**IT IS HEREBY AGREED** as follows;

**1. DEFINITIONS**

In this Intercreditor Agreement, defined terms have the meaning given to them in the New Bond Loan Agreement unless otherwise stated below:

“**Bond Obligations**” means the Original Bond Obligations and the New Bond Obligations.

“**Bond Trustees**” means the Original Bond Trustee and the New Bond Trustee.

“**Bridge Funding**” means the bridge funding provided by certain bondholders by way of funding undertakings dated 29 March 2016 and 28 September 2016.

**"Finance Documents"** means the New Finance Documents and the Original Finance Documents.

**"Finance Parties"** means the New Finance Parties and the Original Finance Parties.

**"FPSO"** has the meaning given to it in the Original Bond Agreement.

**"Insolvency Event"** means, in relation to the Original Bond Issuer:

- (a) the suspension of payments (other than the Suspension of Payments), a moratorium of any indebtedness, winding-up, dissolution, administration, or reorganisation (by way of debt settlement, compromise, voluntary arrangement, scheme of arrangement or otherwise, other than authorized in the Suspension of Payments);
- (b) the appointment of a liquidator, bankruptcy trustee, receiver, administrative receiver, administrator, compulsory manager or other similar officer of any of its assets; or
- (c) enforcement of any security over or arrest, attachment (other than the attachment granted to Banco BTG Pactual S/A Cayman Branch on 23 April 2015 and any attachment granted to the Original Bond Issuer) or sequestration of any of its assets (including a judicial arrest of the FPSO).

**"Liabilities"** means all present and future liabilities and obligations at any time of the New Bond Issuer under the New Finance Documents or the Original Bond Issuer under the Original Finance Documents to any of the Finance Parties, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by the New Bond Issuer or Original Bond Issuer of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

**"New Bond Discharge Date"** means the date on which all New Bond Obligations have been fully and finally discharged to the satisfaction of the New Bond Trustee, whether or not as a result of enforcement.

**"New Bond Loan Agreement"** has the meaning given to it in Recital C.

**"New Bond Obligations"** means the obligations and liabilities of the New Bond Issuer under the New Finance Documents including (without limitation) its obligation to repay the New Bonds together with all unpaid interest, default interest, commissions, fees, premia, charges, expenses and any other derived liability whatsoever of the New Bond Issuer owing to the New Finance Parties in connection with the New Finance Documents.

**"New Bondholders"** has the meaning given to the term "Bondholder" in the New Bond Loan Agreement.

**"New Bonds"** means the bonds issued by the New Bond Issuer under the New Bond Loan Agreement.

**"New Bonds Turnover Agreement"** has the meaning given to it in Clause 7.

**"New Finance Documents"** has the meaning given to the term "Finance Documents" in the New Bond Loan Agreement.

**"New Finance Parties"** means the New Bond Trustee and the New Bondholders.

**"On-Loan"** has the meaning given to it in Recital D.

**"Original Bond Obligations"** means the obligations and liabilities of the Original Bond Issuer under the Original Finance Documents including (without limitation) its obligation to repay the Original Bonds together with all unpaid interest, default interest, commissions, charges, expenses and any other derived liability whatsoever of the Original Bond Issuer owing to the Original Finance Parties in connection with the Original Finance Documents and the Original Guarantee.

**"Original Bond Loan Agreement"** means the bond agreement dated 15 March 2012 between OSX 3 Leasing B.V. as issuer and the Original Bond Trustee (as subsequently amended and restated on 12 September 2014) pursuant to which OSX3 Leasing B.V. issued the Original Bonds.

**"Original Bond Security Agent"** has the meaning given to the term "Security Agent" in the Original Bond Loan Agreement.

**"Original Bond Security Interests"** has the meaning given to the term "Security Interest" in the Original Bond Loan Agreement.

**"Original Bondholders"** has the meaning given to the term "Bondholder" in the Original Bond Loan Agreement.

**"Original Bonds"** means the bonds issued by Original Bond Issuer under the Original Bond Loan Agreement.

**"Original Bond Discharge Date"** means the date on which all Original Bond Obligations have been fully and finally discharged to the satisfaction of the Original Bond Trustee, whether or not as a result of enforcement.

**"Original Finance Documents"** has the meaning given to the term "Finance Documents" in the Original Bond Loan Agreement.

**"Original Finance Parties"** means the Original Bond Trustee and the Original Bondholders.

**"Party"** means a party to this Intercreditor Agreement.

**"Payment"** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations).

**"Purpose"** has the meaning given to it in the New Bond Loan Agreement.

**“Running Costs”** means the amount of proceeds of the New Bonds retained by the Issuer to meet (i) its own fees, costs and expenses (ii) the fees costs and expenses of its shareholder; and (iii) the fees, costs and expenses of the New Bond Trustee.

**“Suspension of Payments”** means the granting by the District Court of Amsterdam on 31 December 2015 of provisional suspension of payments status to the Original Bond Issuer.

## **2. NEW FINANCE PARTIES UNDERTAKINGS AND ACTIONS**

- 2.1** The New Bond Issuer may make any Payment of the New Bond Obligations at any time in accordance with the New Finance Documents.
- 2.2** Subject to Clause 2.3, the New Finance Parties may amend or waive in writing the terms of the New Finance Documents in accordance with their terms (and subject to any consent or formality required under them) at any time.
- 2.3** Without the prior consent of the Original Bond Trustee, the New Finance Parties may not amend or waive any of the terms of the New Finance Documents if the amendment or waiver is, in relation to the original form of the New Finance Documents, an amendment or waiver:
- (a) which would result in the aggregate principal amount of New Bonds (other than additional New Bonds issued as a result of the accrual of PIK (payment in kind)) issued after the date of this Intercreditor Agreement exceeding US\$7,000,000;
  - (b) which constitutes an increase in the interest, or the basis of accrual of additional interest, fees or commission relating to the New Bonds;
  - (c) with respect to the amount, currency, dates or terms of repayment or prepayment (mandatory or otherwise) of any amount under the New Finance Documents; or
  - (d) the effect of which is to make the New Bond Issuer liable to make additional or increased payments.
- 2.4** The New Finance Parties may take, accept or receive the benefit of any new security interest in respect of the New Bonds.

## **3. ORIGINAL FINANCE PARTIES UNDERTAKINGS AND ACTIONS**

- 3.1** The Original Finance Parties shall not amend or waive the terms of the Original Finance Documents without the prior written consent of the New Bond Trustee unless such amendment or waiver would not adversely impact recoveries under the Original Bonds.
- 3.2** The Original Finance Parties shall not release the Original Bond Security Interests without the prior written consent of the New Bond Trustee.
- 3.3** The Original Bond Trustee shall not take any action to impair the likelihood of recoveries under the Original Bonds without the prior written consent of the New Bond Trustee.

## **4. EFFECT OF INSOLVENCY EVENT**

### **4.1 Distributions**

- (a) After the occurrence of an Insolvency Event, any Finance Party entitled to receive a distribution out of the assets of the Original Bond Issuer in respect of Bond Obligations owed to that Finance Party shall, to the extent it is able to do so, direct the

person responsible for the distribution of the assets of the Original Bond Issuer to make that distribution to the New Bond Trustee (or to such other person as the New Bond Trustee directs) until the New Bond Obligations owing to the New Finance Parties have been paid in full.

- (b) The New Bond Trustee shall apply distributions made to it under paragraph (a) above in accordance with Clause 6 (*Application of Proceeds*).

#### **4.2 Set-Off**

To the extent that the Original Bond Obligations of the Original Bond Issuer are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event, any Original Finance Party which benefited from that set-off shall pay an amount equal to the amount of the Original Bond Obligations owed by it which are discharged by that set-off to the New Bond Trustee for application in accordance with Clause 6 (*Application of Proceeds*).

#### **4.3 Filing of claims**

After the occurrence of an Insolvency Event, the Original Finance Parties irrevocably authorise the New Bond Trustee, on its behalf, to:

- (a) demand, sue, prove and give receipt for any or all of the Original Bond Obligations;
- (b) collect and receive all distributions on, or on account of, any or all of the Bond Obligations; and
- (c) file claims, take proceedings and do all other things the New Bond Trustee considers reasonably necessary to recover the Bond Obligations.

#### **4.4 Further assurance – Insolvency Event**

Each Finance Party shall:

- (a) do all things that the New Bond Trustee requests in order to give effect to this Clause 4; and
- (b) if the New Bond Trustee is not entitled to take any of the actions contemplated by this Clause 4 or if the New Bond Trustee requests that a Finance Party take that action, undertake that action itself in accordance with the instructions of the New Bond Trustee or grant a power of attorney to the New Bond Trustee (on such terms as the New Bond Trustee may reasonably require) to enable the New Bond Trustee to take such action.

### **5. TURNOVER OF RECEIPTS**

#### **5.1 Turnover**

If at any time prior to the New Bond Discharge Date any Original Finance Party receives or recovers:

- (a) any Payment or distribution of, or on account of or in relation to, any of the Original Bond Obligations or any proceeds of any enforcement of any Original Bond Security Interests which in each case is not made in accordance with the priority in Clause 6 (*Application of Proceeds*);
- (b) any amount by way of set-off in respect of any of the Original Bond Obligations owed to it,

that Original Finance Party will:

- (c) in relation to receipts and recoveries not received or recovered by way of set-off, hold an amount equal to that receipt or recovery on trust on behalf of the New Bond Trustee and promptly pay or distribute that amount to the New Bond Trustee for application in accordance with the terms of this Intercreditor Agreement; and
- (d) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that receipt or recovery to the New Bond Trustee for application in accordance with the terms of this Intercreditor Agreement.

## 5.2 Saving Provision

If, for any reason, any trust expressed to be created in this Clause 5 (*Turnover*) should fail or be unenforceable, the Original Finance Party receiving any Payment described in Clause 5.1(c) will promptly pay an amount equal to that receipt or recovery to the New Bond Trustee for application in accordance with the terms of this Intercreditor Agreement.

## 6. APPLICATION OF PROCEEDS

The New Bond Trustee will apply the amounts turned over to it pursuant to Clause 5 (*Turnover*) above for application, to the extent permitted by applicable law, in the following order of priority:

- (a) **firstly**, in or towards payment of all costs and expenses whatsoever incurred by either of the Bond Trustees and their respective advisers under or in connection with the New Bonds and/or the Original Bonds on a *pari passu* and *pro rata* basis;
- (b) **secondly**, in payment or distribution to the New Bond Trustee on its own behalf and on behalf of the New Bondholders for application (in accordance with the terms of the New Finance Documents) towards the discharge of the New Bond Obligations;
- (c) **thirdly**, in payment or distribution to the Original Bond Trustee on its own behalf and on behalf of the Original Bondholders for application (in accordance with the terms of the Original Finance Documents) towards the discharge of the Original Bond Obligations.

## 7. DEEMED DISCHARGE

Should any Original Finance Party make any payment to the New Bond Trustee as prescribed by:

- (a) Clause 4.1 (*Distributions*);
- (b) Clause 4.2 (*Set-off*); or
- (c) Clause 5 (*Turnover*),

each being a “**New Bonds Turnover Payment**”, then any amount of the New Bonds Turnover Payment which is applied by the New Bond Trustee on its own behalf and on behalf of the New Bondholders for application (in accordance with the terms of the New Finance Documents) towards the discharge of the New Bond Obligations under Clause 6(c), shall be deemed to have discharged the obligations of (i) the New Bond Issuer under the New Finance Documents and (ii) the Original Bond Trustee (for and on behalf of the Original Bondholders) under the *On-Loan*, in each case in an equivalent amount to the New Bonds Turnover Payment.

## **8. WAIVER OF RIGHTS**

The Original Finance Parties hereby irrevocably waive any rights which they may have to take the benefit (in whole or in part) of any rights of the New Finance Parties under the New Finance Documents and the Original Finance Parties shall have no right of subrogation or other claims against the Original Bond Issuer as a result of the turnover arrangements created by this intercreditor agreement.

## **9. REPRESENTATIONS**

Each Party to this Intercreditor Agreement represents to each other Party that:

- (a) entry into this Intercreditor Agreement constitutes the creation of legal, valid and binding obligations upon it;
- (b) entry into this Intercreditor Agreement is within its powers; and
- (c) this Intercreditor Agreement has been duly authorised by it.

## **10. NOTICES**

**10.1** All notices or other communications under this Intercreditor Agreement shall be in writing and are duly given or made and received when delivered (in the case of personal delivery or letter) and when despatched (in the case of facsimile or other electronic communication) to such address as such Party may hereafter notify to the other Parties.

**10.2** The Original Bond Trustee and New Bond Trustee will, respectively, give notice to each Original Bondholder and Each New Bondholder of any notice received by it under this Intercreditor Agreement.

## **11. SEVERABILITY OF PROVISIONS**

Each of the provisions in this Intercreditor Agreement are severable and distinct from the others, and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Intercreditor Agreement will not in any way be affected or impaired thereby.

## **12. AGREEMENT TO OVERRIDE**

Unless expressly stated otherwise in this Intercreditor Agreement, this Intercreditor Agreement overrides anything in the Finance Documents to the contrary.

## **13. TERM**

This Intercreditor Agreement will remain in force until the New Bond Discharge Date, upon which it will automatically terminate.

## **14. COUNTERPARTS**

This Intercreditor Agreement may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Intercreditor Agreement.

**15. GOVERNING LAW AND JURISDICTION**

This Intercreditor Agreement is governed by and construed in accordance with Norwegian law and each of the parties hereto hereby irrevocably submits to the non-exclusive jurisdiction of Oslo City Court (Oslo tingrett).

For and on behalf of  
the Original Bond Trustee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

For and on behalf of  
the New Bond Trustee:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

For and on behalf of  
OSX3 Cayman Limited:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_