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as Petitioner and Foreign Representative

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	)	
	)	Case No. 22-11447 (MG)
Olinda Star Ltd. (In Provisional Liquidation),[1]	)	
	)	
Debtor in a Foreign Proceeding.	)	Chapter 15
	)	

DECLARATION OF GRANT CARROLL PURSUANT TO 28 U.S.C. § 1746

[1] The Debtor in this Chapter 15 case, and the last four identifying digits of the tax number of the jurisdiction in which it pays taxes, is Olinda Star Ltd. (In Provisional Liquidation) (BVI – 9761).

1. I, Grant Carroll, hereby submit this Declaration (the "**BVI Law Declaration**") in support of the *Petitioner's Declaration and Verified Petition for Recognition of BVI Proceeding and Motion Requesting Additional Relief* (the "**Chapter 15 Petition**").[2]

2. The facts and matters contained in this Declaration are true and correct to the best of my information, knowledge and belief.

3. Except as otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge or based upon my review of relevant documents. To the extent matters stated in this Declaration are statements of legal opinion, such statements represent my view of the law of the British Virgin Islands (the "**BVI**") as a practicing BVI attorney.

BACKGROUND AND QUALIFICATIONS

4. I am a partner of the law firm Ogier. Ogier is a law firm that advises clients worldwide on the laws of the BVI, the Cayman Islands, Jersey, Guernsey, Ireland, and Luxembourg. I have practiced law in the BVI since 2013 and I advise on the laws of the BVI.

5. I practice in Ogier's BVI Dispute Resolution team as a partner. I have considerable experience advising court-appointed liquidators, banks, multinational corporations and financial services institutions in the restructuring, liquidation and winding-up of BVI companies and funds.

6. I completed my academic legal training with BPP Law School in London in 2005. Thereafter I was called to the bar of England and Wales, with the Honourable Society of the Middle Temple, in 2005. I moved to the BVI in 2013 and was similarly called to the Bar of the BVI in 2013 where I have practiced ever since.

7. I have practised law for over a decade and during that time have been involved in many liquidation and insolvency related proceedings. I regularly appear as lead counsel

[2] Except as otherwise stated herein, "Ex." shall refer to exhibits to this BVI Law Declaration.

before all levels of the BVI court system, including the BVI High Court, Commercial Court and the Court of Appeal of the Eastern Caribbean Supreme Court. My appearances often concern aspects of the BVI Insolvency Act, 2003 (as amended, the "**BVI Insolvency Act**"), the Insolvency Rules, 2005, and other laws governing restructuring and insolvency of BVI entities.

8. Although I am not admitted in the United States, I am familiar with the provisions of Chapter 15 of the United States Bankruptcy Code, 11 U.S.C. § 101 et seq. (the "**Bankruptcy Code**") as a consequence of my BVI practice.

OVERVIEW OF OLINDA

9. Olinda Star Ltd. (In Provisional Liquidation) ("**Olinda**") maintains its registered office at Tortola Pier Park, Building 1, Second Floor, Wickhams Cay 1, Road Town, Tortola VG1110 in the BVI and its statutory books and records are held in Panama by its registered agent at Torre BjC SA Financial Center, Avenida Balboa y Calle Aquilino de la Guardia, Piso 40, officina 4003, Panama. Attached hereto as **Exhibit A** are copies of Olinda's Certificate of Incorporation and Certificate of Change of Name. Olinda's membership interests are also located in the BVI.[3]

STATEMENTS OF BVI LAW AND PRACTICE

A. Sources of Law of the BVI

10. The BVI is an Overseas Territory of the United Kingdom. The legal system of the BVI is an English-style common-law system based upon the doctrine of precedent. The Common Law (Declaration of Application) Act (Cap 13) extends the common law of England to the BVI. Equitable principles of English jurisprudence also apply in the BVI. It follows

[3] *See* BVI Business Companies Act 2004, § 245 ("[f]or the purposes of determining matters relating to title and jurisdiction but not for the purposes of taxation, the situs of ownership of shares, debt obligations or other securities of a company is the [British] Virgin Islands.").

that the common law of the BVI is largely identical to that of England (except insofar as modified by statute or BVI jurisprudence).

11. Decisions by the Judicial Committee of the Privy Council in the United Kingdom are binding on the BVI Courts. Decisions from other UK Courts are highly persuasive and are routinely followed. In the absence of any authority from the BVI Court on any issue of law, which is often the case, decisions of other common law courts, and in particular decisions of the English courts, are of strong persuasive authority.

12. The BVI has its own legislature called the House of Assembly, which enacts statutory legislation. However, the United Kingdom retains the power to adopt legislation for the BVI and maintains the ability to extend the implementation of international treaties to the BVI. Therefore, certain legislation and treaties adopted by the United Kingdom form part of the laws of the BVI.

B. Overview of BVI Law Governing Olinda's BVI Proceeding

13. On September 7, 2006, Olinda was incorporated in the BVI as a Business Company, which is a limited liability company equivalent to a corporation under U.S. law. The Insolvency Act is the governing law of corporate insolvency and, together with the BVI Business Companies Act, 2004 (as amended, the "**Business Companies Act**" and, together with the Insolvency Act, the "**BVI Acts**"), legislates how the adjustment of debt is dealt with in the British Virgin Islands. A copy of the enacting legislation of the Insolvency Act is attached hereto as **Exhibit B**. The enacting legislation describes the Insolvency Act as "[a]n Act to reform the law relating to the insolvency of companies and foreign companies . . . and to provide, in particular, for a mechanism for insolvent persons to enter into arrangement with their creditors, an administration procedure for companies, the receivership of companies and foreign companies, [and] the liquidation of companies[.]" *See* Ex. B at 22.

14. The BVI Acts contain provisions broadly similar to those contained in the insolvency laws of England, and provide for the following key insolvency and restructuring proceedings: (i) liquidation; (ii) provisional liquidation; (iii) schemes of arrangement; (iv) plans of arrangement; (v) receiverships; and (vi) administrative receiverships. The key principle of BVI insolvency is the *pari passu* principle (*i.e.*, that similarly situated creditors should be treated the same), which closely follows the English law tradition. Pursuant to section 446 of the Insolvency Act, foreign creditors have equal rights as BVI-based creditors.

15. There is no process or procedure under BVI law which is directly equivalent to chapter 11 of the United States Bankruptcy Code. In the BVI, a company that requires the protection of a stay in order to present a compromise or arrangement to its creditors must seek the appointment of a provisional liquidator. Where a provisional liquidator is appointed, there is no automatic stay of proceedings, however, an application may be made to seek a stay of any proceedings brought against the company. At least one of the company's joint provisional liquidators must be a BVI resident and hold a BVI insolvency practitioner's license. However, a foreign insolvency practitioner meeting the requirements of the BVI Financial Services Commission may be appointed to a company jointly with one or more qualified insolvency practitioners.

16. Provisional liquidators are officers of the BVI Court and their authority to act is derived solely from BVI Court orders, as they may only exercise those powers that the BVI Court specifically confers upon them. In some cases, upon the appointment of a provisional liquidator, substantially all of the directors' powers will be suspended, and the provisional liquidator is given all powers necessary (subject to the supervision of the BVI Court) to operate the company. In other cases, for example, where there are no allegations of wrongdoing against the directors and officers of the company, the provisional liquidation may be conducted in a "light-touch" manner. In a "light-touch" provisional liquidation, the directors typically retain

day-to-day control of the company but the provisional liquidators are kept apprised of the company's ordinary operations. However, corporate authority to pursue a course of action that is *outside* the ordinary course of business (such as proposing an arrangement or compromise to creditors) typically must be approved by the provisional liquidator.

C. Overview of Olinda's "light-touch" provisional liquidation and scope of the JPLs' authority

17. Olinda's provisional liquidation is being conducted in a "light-touch" manner. On April 7, 2021, Olinda filed an application in the BVI Commercial Court (the "**BVI Court**") under section 170 of the Insolvency Act seeking the appointment of Ms. Eleanor Fisher, a qualified insolvency practitioner resident in the Cayman Islands, and Mr. Roy Bailey, a qualified insolvency practitioner resident in the BVI, as joint provisional liquidators ("**JPLs**").

18. On April 9, 2021, the BVI Court issued an order (the "**Appointment Order**"), a copy of which is attached as **Exhibit C** hereto, authorizing the Petitioner to act as foreign representative for the purposes of any proceedings commenced in the United States under chapter 15 of the U.S. Bankruptcy Code and elsewhere under the relevant local laws. The powers of the JPLs to oversee the affairs and restructuring of Olinda are set forth in the Appointment Order. The core powers conferred on the JPLs by the BVI Court are to oversee the exercise of power of the Olinda's directors outside the ordinary course of business, and ultimately implement the restructuring. Appointment Order ¶ 5(a). More specifically, the JPLs have the authority to do all acts and execute, in the name and on behalf of Olinda, all deeds, receipts and other documents, and for those purposes, use the company seal of Olinda when necessary. The BVI Court has also required the directors to include the JPLs in his decision-making process, and to meet with the JPLs on a weekly basis (or such other frequency as the JPLs shall from time to time require). *See* Appointment Order ¶ 6.

19. Additionally, the Appointment Order authorized the JPLs to enter into an insolvency protocol (the "**BVI Insolvency Protocol**"), which is attached to and forms part of

the Appointment Order. Appointment Order ¶ 3. The purpose of the BVI Insolvency Protocol is to ensure the just, efficient, orderly, and expeditious administration of a provisional liquidation. It also facilitates communication between management and the JPLs to ensure that the JPLs receive adequate information to discharge their duties. Under the BVI Insolvency Protocol, Olinda's directors and management must provide to the JPLs such information as they reasonably request to perform their duties. This includes overseeing and monitoring of Olinda's operations in the ordinary course of business. The JPLs are also entitled to receive drafts of written resolutions of Olinda, and to be included in any board meetings. The Protocol also states that the directors of Olinda shall obtain the JPLs' prior approval of the exercise of the directors' powers which are outside of the ordinary course of business.

D. The BVI Court supervises the BVI Proceeding and the JPLs

20. Provisional liquidation is a BVI Court-originated and supervised process. The process is commenced by an "originating application" to the BVI Court. After an initial six-month period, if a provisional liquidator's appointment is to continue, an application must be made to the BVI Court every three (3) months to extend the life of the originating application.

21. Olinda submitted an originating application on April 7, 2021. Over the course of Olinda's BVI Proceeding the JPLs have submitted three (3) reports to the Court, and the originating application has been extended five (5) times. In addition, the BVI Court has required that the JPLs must submit reports on the status of Olinda's restructuring and activities to the BVI Court every four (4) months, and at other intervals as the BVI Court may from time to time direct.

22. Moreover, the provisional liquidators may exercise only their BVI Court-conferred powers. Various actions by a provisional liquidator that are outside the scope of their appointment order require the express prior approval of the BVI Court. This includes the power to make a compromise or arrangement with creditors (such as via a scheme of arrangement).

At any time, the BVI Court can order that certain powers may only be exercised with its approval. The remuneration of the JPLs is also subject to BVI Court approval.

E. Provisional liquidators safeguard the interests of all creditors

23. BVI joint provisional liquidation proceedings are fair, equitable, and collective. BVI provisional liquidation proceedings are not for the benefit of a single creditor. Rather, they operate to preserve value for all creditors and stakeholders.

24. As mentioned, provisional liquidators are officers of the BVI Court and occupy a fiduciary position with respect to the company's assets and creditors. Their function is to represent the collective interests of the creditors of the company and protect its assets from undue dissipation. Indeed, BVI provisional liquidators may, with permission of the BVI Court, bring actions to prevent fraudulent dispositions or recover assets that have been fraudulently conveyed. Provisional liquidators are required to consider the interests of creditors as a whole when discharging their duties, and must treat creditors in a fair and even-handed manner.

25. Moreover, in BVI joint provisional liquidation proceedings, all creditors receive ample notice and an opportunity to be heard by the BVI Court throughout the course of the proceedings and no creditor will be prejudiced because it is foreign-based. Indeed, upon the appointment of a provisional liquidator, the suffix "In Provisional Liquidation" was added to Olinda's name. This suffix is then used on all filings with the BVI registry, and the JPLs directed the company to include it on all documents and correspondence issued by the company in the ordinary course of business to ensure that all those who have dealings with the entity are on notice of its change in status. At any time a creditor or other interested party may apply to the BVI Court to challenge the appointment of the provisional liquidator or seek related relief. Although it is not a requirement of BVI law that the JPLs advertise their appointment, on April 29, 2021, the JPLs placed an advertisement of their appointment in the BVI Gazette, a nationally circulated periodical. The advertisement directed creditors of the company to

contact the JPLs at their BVI location. Attached hereto as **Exhibit D** is a copy of the advertisement.

F. BVI Schemes of Arrangement

26. The BVI Acts provide a comprehensive framework that determines how a company's assets, irrespective of their physical location, will ultimately be distributed to creditors. There are two possible outcomes in a "light-touch" provisional liquidation. The first is that the restructuring is successful, and a compromise or arrangement is reached with creditors, approved by the BVI Court, and duly implemented. If the restructuring succeeds, the provisional liquidators will ordinarily be discharged, the originating application will be dismissed, and the company will not be liquidated. The second possible outcome is that the restructuring fails and the BVI Court ultimately orders that the company be wound up, in which case the provisional liquidators (or other qualified insolvency practitioners) are appointed as liquidators to liquidate the company. In the event of a liquidation, the Insolvency Act provides a regime for the distribution of the proceeds of the estate that substantially accords with my understanding of the order prescribed by U.S. law.[4]

27. As set forth in further detail below, 100% of Olinda's creditors who attended the Scheme Meeting (as defined below) have approved entry by the company into a scheme of arrangement (the "**BVI Scheme**") and the BVI Court has sanctioned (*i.e.*, approved) the BVI Scheme. Accordingly, all that remains for the BVI Scheme to become effective is for this Court to enter the relief requested in the Chapter 15 Petition, upon which the Scheme

[4] Specifically, section 207 of the BVI Act provides for the payment of classes of admitted claims and expenses in accordance with statutory priorities, and if the amount available for such claims is insufficient to pay claims in full, directs ratable payment by class. Any person or entity with a claim against the company may assert such claim in the proceeding. Further, any creditor not satisfied with the adjudication of its claim by the liquidator, may apply to the BVI Court for relief. *See* BVI Act §§ 209 and 273. In short, the BVI Act addresses, among other things, the provision of notice to creditors, the presentation and consideration of claims, the right of creditors to take part in the proceeding, and the distribution of assets to creditors holding approved claims. BVI Act §§ 178, 207-215.

Administrator will ensure that the BVI Scheme is filed with the BVI Registrar. The BVI Scheme will become effective as soon as it is filed with the BVI Registrar.

i. *Overview of law governing BVI Schemes of Arrangements*

28. A scheme of arrangement is a statutory, court-supervised arrangement between a company and its creditors. It is a collective procedure. A duly-approved scheme becomes binding on all creditors, whether or not they (a) attended the meeting, (b) voted at the meeting, or (c) voted against the scheme. The statutory framework for schemes of arrangement under BVI law was derived from, and remains substantially similar to, schemes of arrangement permitted under English law. I understand from my review of the relevant legislation that Cayman law schemes of arrangement are also based upon English law statute. Further, the jurisprudence surrounding English schemes of arrangement is persuasive in both the Cayman and BVI courts.

ii. *Approval of Olinda's Scheme of Arrangement*

29. The scheme approval process commences by the company passing a resolution to propose a scheme of arrangement to its creditors. Where, as here, the company is in provisional liquidation, such a resolution will require the prior approval of the provisional liquidator. In considering whether or not to allow a scheme to proceed, the provisional liquidator will consider whether the scheme secures a better return for the company's creditors than they would otherwise receive in a liquidation. If satisfied, the provisional liquidator will authorize the company to begin the process of putting a scheme of arrangement to creditors and thereafter seeking BVI Court approval.

30. On May 26, 2022, the JPLs, having concluded that entry into the BVI Scheme was in the interests of Olinda's creditors, authorized Olinda's former sole director to pass the resolution necessary to commence the approval process for the BVI Scheme, and counter-

signed that resolution (the "**Scheme Commencement Resolution**").[5] Attached hereto as **Exhibit E** is a copy of the Scheme Commencement Resolution.

31. Next, with prior approval of the provisional liquidator, an application must be made to the BVI Court to request that a hearing be held (the "**Convening Hearing**") and an order be entered to convene a meeting of creditors (the "**Scheme Meeting**"). At the Convening Hearing, the BVI Court sets the date, time, and location of the Scheme Meeting and prescribes the notice procedures to be followed. The Convening Hearing can be held on the papers if the BVI Court allows it. Creditors in the same class will be convened to the same Scheme Meeting.

32. On May 27, 2022, Olinda, pursuant to the authorization of the JPLs, applied to the BVI Court and requested that the Convening Hearing be scheduled. On July 20, 2022, the BVI Court issued an order (the "**Convening Order**") scheduling the creditors meeting for September 13, 2022. Attached hereto as **Exhibit F** is a copy of the Convening Order. The Convening Order also provided that creditors must receive copies of the notice convening the Scheme Meeting and the BVI Scheme (the "**Scheme Documents**") at least 14 days prior to the Scheme Meeting.

33. In accordance with the Convening Order, on August 18, 2022, the Scheme Documents were posted on the company's website at (https://www.theconstellation.com/listgroup.aspx?idCanal=GgZrgRjwxBRA+vpj1rBOlg==&linguagem=en). This is the same website where documents were posted in connection with the Brazilian RJ Proceeding for the benefit of the Constellation Group's creditors. Also on August 18, 2022, notice of the Scheme Meeting and Scheme Documents were forwarded separately to Banco Bradesco S.A. (who represents approximately 17.47% in value of the

[5] The Scheme Commencement Resolution was executed by Mr. Michael Pearson, in his capacity as Olinda's sole director. Pursuant to a unanimous written resolution, as of July 1, 2022, Mr. Camilo Mcallister Rendon and Ms. Fabiola de Barros da Silva Goulart are Olinda's current directors. Unless otherwise specified, "directors" as used herein refers to the sole director or the directors holding office during their respective terms.

creditors of Olinda). On August 19, 2022 a notice of the Scheme Meeting (the "**Scheme Notice**") and copies of the Scheme Documents were also provided to the Depository Trust Company ("**DTC**") for distribution to scheme creditors. The Scheme Notice was also published in the BVI Gazette on September 1, 2022. A copy of the Scheme Notice is attached hereto as **Exhibit G**, and copies of the Scheme Documents are attached hereto as **Exhibit H**.

34. The BVI Court also appoints a person to chair the Scheme Meeting and fairly implement the scheme, if approved (the "**Scheme Administrator**"). In this instance the BVI Court appointed the Petitioner as Scheme Administrator, thereby extending the scope of the Petitioner's fiduciary duties to include oversight of the implementation of the BVI Scheme.

35. On September 13, 2022, the Petitioner, in her capacity as JPL and chair of the Scheme Meeting, convened the Scheme Meeting.

36. For a scheme to be approved by the BVI Court, it must be approved by a majority in number representing 75% in value of the creditors or class of creditors or members or class of members, present and voting either in person or by proxy at the meeting. Those who attend the Scheme Meeting have an opportunity to ask questions and make representations. At the Scheme Meeting, 100% of the scheme creditors present or voting by proxy voted to approve the BVI Scheme. The creditors present and voting (*i.e.*, all of them) represented just over 67% of Olinda's total creditors by value. Approximately 32% of Olinda's creditors abstained from voting. Attached hereto as **Exhibit I** is copy of the Scheme Administrator's report regarding the Scheme Meeting.

37. Once a scheme is duly approved by creditors at the Scheme Meeting, the next step is to obtain BVI Court sanction (*i.e*. approval) of the BVI Scheme following a hearing (the "**Sanction Hearing**"). While the Sanction Hearing appears in the court list and persons with a legitimate interest can attend and make representations to the BVI Court, the BVI Act does not require that scheme creditors be served with notice of the outcome of the Scheme Meeting

or the scheduling of the Sanction Hearing. However, on September 21, 2022, the Foreign Representative caused a notice to be served on all scheme creditors via the DTC notifying them that: (i) the BVI scheme had been approved; (ii) the Sanction Hearing was scheduled to be held on October 19, 2022; and (iii) "any interested person may appear at the Sanction Hearing." Attached here to as **Exhibit J** is copy of the Notice to Creditors dated September 21, 2022. The Foreign Representative also caused the same notice to be posted to the company's website.

38. At the Sanction Hearing, the BVI Court considered whether or not to sanction (*i.e.*, approve) the BVI Scheme. The BVI Court's approval of a scheme of arrangement is not simply a "rubber stamp" exercise, but will involve an assessment of the relevant facts. At the Sanction Hearing, the applicant must demonstrate (usually through an affidavit of the Scheme Administrator) that: (i) the relevant statutory requirements have been satisfied; (ii) the classes of creditors were properly identified; (iii) each class was fairly represented by those attending the scheme meeting and the statutory majority was acting bona fide in the interests of the class; and (iv) it would be reasonable to approve the scheme. The BVI Court held the Sanction Hearing on October 19, 2022, and, based on the evidence submitted by the Scheme Administrator, entered an order (the "**BVI Sanction Order**") approving the BVI Scheme. Attached hereto as **Exhibit K** is a copy of the BVI Sanction Order. No creditor objected to the issuance of the BVI Sanction Order.

39. Once the BVI Court sanctions a scheme of arrangement, it must be filed with the BVI Registrar. A scheme becomes effective upon such filing under BVI law. However, here, since the BVI Scheme concerns U.S. law-governed debt instruments, I understand from U.S. co-counsel that the effectiveness of the restructuring is conditioned on the granting of full force and effect to the BVI Scheme in the United States (the "**Chapter 15 Order**"). Accordingly, the Petitioner will cause the BVI Scheme to be filed with the BVI Registrar

following entry of the Chapter 15 Order, upon which filing the BVI Scheme will become effective.

Dated: November 2, 2022
Tortola, British Virgin Islands

By: */s/ Grant Carroll*
Grant Carroll

EXHIBIT A

Olinda's Certificate of Incorporation and Certificate of Change of Name

TERRITORY OF THE BRITISH VIRGIN ISLANDS
BVI BUSINESS COMPANIES ACT, 2004

CERTIFICATE OF INCORPORATION (SECTION 7)

The Registrar of Corporate Affairs, of the British Virgin Islands HEREBY CERTIFIES, that pursuant to the BVI Business Companies Act, 2004, all the requirements of the Act in respect of incorporation having been complied with,

TESSONE VENTURES S.A.

BVI COMPANY NUMBER: 1049761

is incorporated in the BRITISH VIRGIN ISLANDS as a BVI BUSINESS COMPANY, this 7th day of September, 2006.

BBC0010

REGISTRAR OF CORPORATE AFFAIRS
7th day of September, 2006

TERRITORY OF THE BRITISH VIRGIN ISLANDS
BVI BUSINESS COMPANIES ACT, 2004

CERTIFICATE OF CHANGE OF NAME
(SECTION 21)

The REGISTRAR OF CORPORATE AFFAIRS of the British Virgin Islands HEREBY CERTIFIES that, pursuant to the BVI Business Companies Act, 2004, the requirements of the Act in respect of a change of name having been complied with

TESSONE VENTURES S.A.

BVI COMPANY NUMBER **1049761**

which was incorporated in the British Virgin Islands under the BVI Business Companies Act, 2004, on the 7th day of September, 2006 has changed its name to

OLINDA STAR LTD.

this the 28th day of December, 2006.

REGISTRAR OF CORPORATE AFFAIRS
FSC
BVI FINANCIAL SERVICES COMMISSION

for **REGISTRAR OF CORPORATE AFFAIRS**
28th day of December, 2006

EXHIBIT B

Enacting Legislation of the Insolvency Act

VIRGIN ISLANDS

INSOLVENCY ACT, 2003
No. 5 of 2003

VIRGIN ISLANDS

INSOLVENCY ACT, 2003

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY PROVISIONS

PART II

CREDITORS' ARRANGEMENTS

Division 1 - Interpretation

ADMINISTRATION ORDERS

MORATORIUM

ADMINISTRATORS

ADMINISTRATOR'S PROPOSALS

MISCELLANEOUS

PROTECTION OF INTERESTS OF CREDITORS AND MEMBERS

PART IV

RECEIVERSHIP

PRELIMINARY

GENERAL

RECEIVERS APPOINTED OUT OF COURT

ADMINISTRATIVE RECEIVERS

PART V

PROVISIONS APPLICABLE TO THE LIQUIDATION OF COMPANIES

AND TO THE BANKRUPTCY OF INDIVIDUALS

PART VI

LIQUIDATION

PRELIMINARY

APPOINTMENT OF LIQUIDATOR BY COURT

INTERIM RELIEF

EFFECT OF LIQUIDATION

NOTICE OF APPOINTMENT AND FIRST MEETINGS OF CREDITORS

LIQUIDATORS

MEMBERS

CLAIMS

PART VIII

VOIDABLE TRANSACTIONS

PART IX

MALPRACTICE

PART X

DISQUALIFICATION ORDERS AND UNDERTAKINGS

PART XI

GENERAL PROVISIONS WITH REGARD TO COMPANIES THAT ARE INSOLVENT OR IN LIQUIDATION

Division 1 - General

Division 2 - Statement of Affairs

Division 3 - Investigation of Insolvent Company's Affairs

OFFICE HOLDER'S POWERS

EXAMINATION BEFORE COURT

Division 4 - Offence Provisions

PART XII

BANKRUPTCY

PRELIMINARY

BANKRUPTCY ORDER

INTERIM RELIEF

EFFECT OF BANKRUPTCY

311. Effect of bankruptcy order.
312. Power to stay or restrain proceedings.

BANKRUPT'S ESTATE

313. Definition of bankrupt's estate.
314. Acquisition by trustee of control of bankrupt's estate.
315. Goods subject to pledge etc.
316. Duties of bankrupt in relation to his assets and affairs.
317. Delivery up by other persons.
318. After-acquired assets.
319. Vesting in trustee of certain items of excess value.
320. Vesting in trustee of certain tenancies.
321. Time limit for notice under sections 318, 319 or 320.
322. Income payments orders.

BANKRUPTCY TRUSTEE

323. Bankruptcy trustee officer of Court.
324. General duties of trustee.
325. Powers of trustee.
326. Notice of appointment.
327. Appointment of trustee in place of Official Receiver.
328. Removal of trustee.
329. Resignation of trustee.
330. Vacancy in office of trustee.
331. Remuneration of trustee.
332. General control of trustee by the Court.

ADMINISTRATION BY TRUSTEE

333. Meetings of creditors.

CLAIMS AND DISTRIBUTION OF ESTATE

334. Distribution of bankrupt's estate.
335. Debts to spouse.
336. Claims by unsecured creditors.
337. Variation, withdrawal and expunging of claims.
338. Claims by secured creditors.
339. Redemption of security interest by trustee.

340. Realization of security interest by secured creditor.
341. Surrender for non-disclosure.
342. Interest after commencement of bankruptcy.
343. Distribution by means of dividend.
344. Claims by unsatisfied creditors.
345. Distribution of assets in specie.
346. Final distribution.
347. No action for dividend.
348. Right of bankrupt to surplus.

349. Final Meeting.

PRIOR TRANSACTIONS

350. Contracts to which bankrupt is a party.
351. Enforcements procedures.
352. Distress, etc.
353. Unenforceability of liens on books, etc.

GENERAL POWERS OF COURT

354. General control of Court.
355. Power of arrest.
356. Seizure of bankrupt's assets.
357. Re-direction of bankrupt's letters, etc.

DISCLAIMER

358. Trustee may disclaim onerous property.
359. When disclaimer takes effect.
360. Notice to trustee to elect whether to disclaim.
361. Effect of disclaimer.
362. Vesting orders and orders for delivery.
363. Vesting orders in respect of leases.
364. Land subject to rentcharge.
365. Disclaimer presumed valid.

INVESTIGATION OF BANKRUPT’S AFFAIRS

366. Statement of assets and liabilities.
367. Preliminary report.

PART XIV

VOIDABLE TRANSACTIONS

PART XV

BANKRUPTCY RESTRICTIONS ORDERS AND UNDERTAKINGS

PART XVI

GENERAL PROVISIONS WITH REGARD TO INSOLVENCY PROCEEDINGS UNDER THIS ACT

Division 1 - The Creditors' Committee

RECOGNITION OF FOREIGN PROCEEDING AND RELIEF

COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

CONCURRENT PROCEEDINGS

PART XIX

ORDERS IN AID OF FOREIGN PROCEEDINGS

PART XX

INSOLVENCY PRACTITIONERS

LICENSING

CONTROL OF LICENSEES AND ENFORCEMENT

OBLIGATIONS OF LICENSEES

ELIGIBLE INSOLVENCY PRACTITIONERS

PART XXI

OFFICIAL RECEIVER

PART XXII

MISCELLANEOUS PROVISIONS

SCHEDULES

I Assent
M. ELTON GEORGES, OBE
Acting Governor
12th May, 2003

VIRGIN ISLANDS

No. 5 of 2003

An Act to reform the law relating to the insolvency of companies and foreign companies, limited partnerships, partnerships and individuals and to provide, in particular, for a mechanism for insolvent persons to enter into arrangements with their creditors, an administration procedure for companies, the receivership of companies and foreign companies, the liquidation of companies, foreign companies, limited partnerships and partnerships, the making of bankruptcy orders against individuals, the licensing and regulation of insolvency practitioners, the penalization and redress of wrongdoing associated with insolvent persons, the disqualification of directors, the avoidance of certain transactions, cross border insolvency issues and other matters connected therewith.

[*Gazetted* 13th May, 2003]

ENACTED by the Legislature of the Virgin Islands as follows:

PART I

PRELIMINARY PROVISIONS

Short title and commencement.

1. (1) This Act may be cited as the Insolvency Act, 2003.

(2) The provisions of this Act come into operation on such date or dates as may be appointed by the Governor by proclamation published in the *Gazette* and different dates may be appointed for different provisions and different purposes.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,

"administration order" has the meaning specified in section 76;

"administrative receiver" has the meaning specified in section 142;

"administrator", in relation to a company, means an administrator appointed under section 79;

"arrangement" means a company creditors' arrangement under Part **II**, Division **2** or an individual creditors' arrangement under Part **II**, Division **3**, as the case may be;

"articles" means

(a) the articles of association of a company, or

(b) where the context permits, in the case of a foreign company the articles of association, by-laws or such other document having the same effect by whatever name called;

"asset" includes money, goods, things in action, land and every description of property wherever situated and obligations and every description of interest, whether present or future or vested or contingent, arising out of, or incidental to, property;

"bankrupt" means an individual against whom a bankruptcy order is made under Part **XII**;

"bankruptcy trustee" means the person appointed by the Court to be the trustee of the assets of a bankrupt;

"bankrupt's estate" has the meaning specified in section 313;

"board", in relation to a body corporate, means

(a) the board of directors, committee of management, council or other governing authority of the body corporate, or

(b) if the body corporate has only one director, that director;

"business day" means any day other than a Saturday, Sunday or public holiday in the Virgin Islands;

"charge" includes a mortgage, a fixed charge and a floating charge, whether crystallised or not;

"chargee" means the holder of a charge and includes a person in whose favour a charge is to be given or executed under an agreement, whether on demand or otherwise;

"chattel leasing agreement" means an agreement for the bailment of goods which is capable of subsisting for more than three months;

"Civil Procedure Rules" means the Eastern Caribbean Supreme Court Civil Procedure Rules 2000;

No. 12 of 2001

"Commission" means the Financial Services Commission established under the Financial Services Commission Act, 2001;

Cap. 285

"Companies Act" means the Companies Act (Cap. 285);

"company" has the meaning specified in section 3;

"connected person"

(a) in relation to a company or a foreign company has the meaning specified in section 5(1), and

(b) in relation to an individual has the meaning specified in section 5(3);

"Court" means the High Court;

Cap. 35

"court rate" means the rate of interest specified in section 7 of the Judgements Act (Cap 35);

"creditor" and "secured creditor" have the meanings specified in section 9;

"creditors' committee" means a committee appointed under section

421;

"director" has the meaning specified in section 6;

"disqualification order" has the meaning specified in section 260(1);

"disqualification undertaking" has the meaning specified in section 260(2);

"document" means a document in any form and includes

(a) any writing or printing on any material,

(b) any record of information or data, however compiled, and whether stored in paper, electronic, magnetic or any non-paper based form and any storage medium or device, including discs and tapes,

(c) books and drawings, and

(d) a photograph, film, tape, negative, facsimile or other medium in which one or more visual images are embodied so as to be capable (with or without the aid of equipment) of being reproduced,

and without limiting the generality of the foregoing, includes any court application, order and other legal process and any notice;

"dollar" or "$" means the lawful currency for the time being of the United States of America;

"eligible insolvency practitioner" means an insolvency practitioner who is eligible to act in relation to a company, foreign company or individual in accordance with section 482;

"floating charge" means a charge created by a company or a foreign company which is, or as created was, a floating charge;

"foreign company" means a body corporate that is incorporated, registered or formed outside the Virgin Islands but excludes a company within the meaning of section 3;

"insolvency practitioner" means a person acting in a capacity specified in section 474(1);

"insolvent",

(a) in relation to a company or a foreign company, has the meaning specified in section 8(1), and

(b) in relation to an individual, has the meaning specified in section 8(2);

No. 15 of 1994 "Insurance Act" means the Insurance Act, 1994;

No. 15 of 1994 "insurance company" means a company or a foreign company that holds, or at any time in the previous two years has held, a licence as an insurer issued under the Insurance Act;

"interim supervisor" means the person appointed as the interim supervisor under a proposal for an arrangement;

Cap. 291 "International Business Companies Act" means the International Business Companies Act (Cap. 291);

"liability" has the meaning specified in section 10;

"licensed insolvency practitioner" means a person holding a licence to act as an insolvency practitioner issued under section 476;

"liquidator", in relation to a company or a foreign company, means a liquidator appointed under section 159;

"member", in relation to a company, includes

(a) a member of a company limited by guarantee; and

Cap. 285 (b) a person to whom shares in a company have been transferred or transmitted by law, even though that person is not a member of the company within the meaning of the Companies Act;

"memorandum" means

(a) the memorandum of association of a company, or

(b) where the context permits, in the case of a foreign company its memorandum of association or other constituting document, by whatever name called;

"officer", in relation to a body corporate, includes a director and secretary of that body corporate but does not include an administrator, liquidator, receiver, supervisor or interim supervisor;

"Official Receiver" means the Official Receiver appointed by the Commission under section 488;

"preferential claim" means a claim of a type prescribed by the Rules as a preferential claim;

"preferential creditor" means a creditor having a preferential claim;

"prescribed" means prescribed by the Rules and "prescribed form" means a form specified in the Rules;

"prescribed priority" means

(a) in a liquidation, the priority for the payment of the costs and expenses of a liquidation prescribed in the Rules, and

(b) in a bankruptcy, the priority for the payment of the costs and expenses of a bankruptcy prescribed in the Rules;

"public document" has the meaning specified in section 13;

"receiver" means the receiver of the whole or any part of the assets of a company or a foreign company and includes

(a) a manager and a receiver and manager,

(b) a receiver of income, and

(c) an administrative receiver;

"receiver appointed out of court" means a receiver appointed in the exercise of a power conferred by a debenture or other instrument;

"Registrar" means the Registrar of Companies appointed under the Companies Act; Cap. 285

"regulated person" means a person that holds a prescribed financial services licence;

"related company" means a company that is related to another company in accordance with section 5(2);

"remuneration" includes properly incurred expenses and disbursements;

"retention of title agreement" means any agreement for the sale of goods under which the seller reserves title in the goods until payment, but excludes an agreement that constitutes a charge on the goods;

"Rules" means the Insolvency Rules made under section 498;

"security interest" includes a charge and a lien;

"statement of affairs" means a statement of the affairs of a company or a foreign company complying with section 277 and "verified statement of affairs" means a statement of affairs that has been verified by affidavit;

"statement of assets and liabilities" means a statement of the assets and liabilities of an individual complying with section 366 and "verified statement of assets and liabilities" means a statement of assets and liabilities that has been verified by affidavit;

"statutory demand" means a demand made under section 155;

"subsidiary" and "holding company" have the meanings specified in section 4;

"supervisor" means the person appointed to act as the supervisor of an arrangement under Part **II**;

"unlicensed financial services business" has the meaning specified in section 7; and

"Virgin Islands court" means any court having jurisdiction in the Virgin Islands.

(2) References in this Act or in the Rules to the "venue" for any proceeding, attendance before the Court or for a meeting are to the time, date and place for the proceeding, attendance or meeting.

Meaning of "company".

3. Unless this Act expressly provides otherwise, "company" means

Cap. 285

(a) a company incorporated under the Companies Act; or

(b) an international business company incorporated or continued under the International Business Companies Act.

Meaning of "subsidiary" and "holding company".

4. (1) A company is a "subsidiary" of another company, its "holding company", if that other company

(a) holds a majority of the voting rights in it,

(b) is a member of it and has the right to appoint or remove a majority of its board,

(c) is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it,

or if it is a subsidiary of a company which is itself a subsidiary of that other company.

(2) For the purposes of subsection (1), "company" includes a foreign company and any other body corporate.

Meaning of "connected person" and "related company".

5. (1) In relation to a company, "connected person" means any one or more of the following

(a) a promoter of the company;

(b) a director or member of the company or of a related company;

(c) a beneficiary under a trust of which the company is or has been a trustee;

(d) a related company;

(e) another company one of whose directors is also a director of the company;

(f) a nominee, relative, spouse or relative of a spouse of a person referred to in paragraphs (a) to (c);

(g) a person in partnership with a person referred to in paragraphs (a) to (c); and

(h) a trustee of a trust having as a beneficiary a person who is, apart from this paragraph, a connected person.

(2) A company is related to another company if

(a) it is a subsidiary or holding company of that other company;

(b) the same person has control of both companies; and

(c) the company and that other company are both subsidiaries of the same holding company.

(3) In relation to an individual, "connected person" means any one or more of the following

(a) a relative, spouse or relative of a spouse of the individual;

(b) a person in partnership with the individual;

(c) a relative or spouse of a person in partnership with the individual;

(d) a company in respect of which he is a connected person under subsection (1);

(e) a trustee of a trust having as a beneficiary a person who is, apart from this paragraph, a connected person.

(4) For the purposes of this section, "company" includes a foreign company and any other body corporate.

Meaning of "director".

6. (1) Subject to subsection (3), "director" in relation to a body corporate includes

(a) a person occupying or acting in the position of director by whatever name called;

(b) a person in accordance with whose directions or instructions a director or the board of a body corporate may be required or is accustomed to act; and

(c) a person who exercises, or is entitled to exercise, or who controls, or is entitled to control, the exercise of powers which, apart from the memorandum or articles, would fall to be exercised by the board.

(2) Notwithstanding subsection (1)

(a) a person is not to be regarded as a director of a body corporate by reason only that a director or the board act on advice given by him in a professional capacity; and

(b) a person acting as an insolvency practitioner in relation to a company or a foreign company is not to be regarded as a director of the company or foreign company by virtue of his acting in that capacity.

(3) In Parts **IX** and **X**, "director" has the meaning specified in this section with the deletion of subsection (1)(c).

Meaning of "unlicensed financial services business".

7. A person carries on unlicensed financial services business if he carries on an activity for which a prescribed financial services licence is required without having such a licence authorising him to carry on the activity.

Meaning of "insolvent".

8. (1) A company or a foreign company is insolvent if

(a) it fails to comply with the requirements of a statutory demand that has not been set aside under section 157;

(b) execution or other process issued on a judgment, decree or order of a Virgin Islands court in favour of a creditor of the company is returned wholly or partly unsatisfied; or

(c) either

(i) the value of the company's liabilities exceeds its assets, or

(ii) the company is unable to pay its debts as they fall due.

(2) An individual is insolvent if

(a) he fails to comply with the requirements of a statutory demand that has not been set aside under section 157; or

(b) execution or other process issued on a judgment, decree or order of a Virgin Islands court in favour of a creditor of the individual is returned wholly or partly unsatisfied.

Meaning of "creditor", "secured creditor" etc.

9. (1) A person is a creditor of another person (the debtor) if he has a claim against the debtor, whether by assignment or otherwise, that is, or would be, an admissible claim in

(a) the liquidation of the debtor, in the case of a debtor that is a company or a foreign company; or

(b) the bankruptcy of the debtor, in the case of a debtor who is an individual.

(2) A creditor is a secured creditor of a debtor if he has an enforceable security interest over an asset of the debtor in respect of his claim.

(3) An unsecured creditor is a creditor who is not a secured creditor.

Meaning of "liability".

10. (1) For the purposes of this Act, "liability" means a liability to pay money or money's worth including a liability under an enactment, a liability in contract, tort or bailment, a liability for a breach of trust and a liability arising out of an obligation to make restitution, and "liability" includes a debt.

(2) A liability may be present or future, certain or contingent, fixed or liquidated, sounding only in damages or capable of being ascertained by fixed rules or as a matter of opinion.

(3) For the purposes of this Act, an illegal or unenforceable liability is deemed not to be a liability.

Admissible claims.

11. (1) For the purposes of this section, "relevant time" means the time of the commencement of the liquidation of a company or a foreign company or the commencement of the bankruptcy of an individual, as the case may be.

(2) Subject to section 12, the following liabilities are admissible as claims in the liquidation of a company or foreign company or in the bankruptcy of an individual;

(a) liabilities of the company, foreign company or individual at the relevant time;

(b) liabilities of the company, foreign company or individual arising after the relevant time by virtue of any obligation incurred before the relevant time; and

(c) any interest that may be claimed in accordance with this Act or the Rules.

(3) For the purposes of determining whether a liability in tort is an admissible claim in the liquidation of a company or foreign company or in the bankruptcy of an individual, the company, foreign company or individual is deemed to become subject to that liability by reason of an obligation incurred at the time the cause of action accrued.

Non-admissible claims.

12. The following liabilities are not admissible claims in the liquidation of a company or a foreign company or the bankruptcy of an individual;

(a) an obligation arising under a confiscation order made under

(i) the Drug Trafficking Offences Act, 1992, or — No. 5 of 1992

(ii) the Proceeds of Criminal Conduct Act, 1997; — No. 5 of 1997

(b) a liability that, under any enactment or rule of law, is of a type that is not claimable, whether on grounds of public policy or otherwise; and

(c) such other liabilities or claims as may be prescribed.

Meaning of "public document".

13. (1) Subject to subsection (3), a "public document", in relation to a person, means a document of, or purporting to be issued, published or signed by or on behalf of that person that

(a) in the case of a company or foreign company, is required or permitted to be filed with the Registrar under

(i) this Act or the Rules,

(ii) the Companies Act, or — Cap. 285

(iii) the International Business Companies Act; — Cap. 291

(b) is issued, published or signed under, or for the purposes of, this Act or the Rules or any other enactment; or

(c) is issued or signed in the course of, or for the purposes of, a particular transaction or dealing.

(2) Without limiting subsection (1), "public document" includes a business letter, statement of account, invoice, receipt, order for goods, order for services or an official notice of, or purporting to be issued, published or signed by, or on behalf of, that person.

(3) A document is not a public document if it is applied, or intended or required to be applied, to goods or to any container, package or wrapping within which goods are, or are intended to be, supplied for a purpose connected with the supply of those goods.

PART II

CREDITORS' ARRANGEMENTS

Division 1 - Interpretation

Interpretation for and scope of this Part.

14. (1) In this Part,

"arrangement" has the meaning specified in section 15;

"debtor" means a company or individual proposing an arrangement,

"nominated insolvency practitioner" means the insolvency practitioner nominated as the interim supervisor under a proposal

(a) by the board of a company,

(b) by the administrator or liquidator of a company, where the company is in administration or liquidation, or

(c) by an individual debtor; and

"proposal" means a proposal for an arrangement.

(2) Where the context allows, a reference in this Part

(a) to a proposal includes the proposal as amended; and

(b) to the rejection of a proposal includes the deemed rejection of a proposal.

Arrangements.

15. (1) An arrangement is a compromise between a debtor and its or his creditors, the implementation of which is supervised by a supervisor acting as a trustee or otherwise.

(2) Without limiting subsection (1), an arrangement may

(a) cancel all or any part of, or vary, a liability of the debtor;

(b) vary the rights of the debtor's creditors or the terms of a debt; and

(c) include any other provision that may be prescribed.

(3) Varying a liability or the terms of a debt under paragraphs (a) or (b) of subsection (2) may include

(a) varying, adding or cancelling rights to interest; and

(b) varying the dates upon which a liability, or part of a liability, becomes due for payment.

(4) An arrangement shall not, except with the written agreement of the secured creditor or the preferential creditor concerned

(a) affect the right of a secured creditor of the debtor to enforce his security interest or vary the liability secured by the security interest; or

(b) result in a preferential creditor receiving less than he would receive in a liquidation or bankruptcy of the debtor had it commenced at the time of approval of the arrangement.

(5) An arrangement does not effect a release of any surety or co-debtor of the debtor unless the terms of the arrangement expressly provide otherwise.

Remuneration of supervisor and interim supervisor.

16. A supervisor and an interim supervisor is entitled to be paid remuneration for his services consisting of

(a) any disbursements made by the interim supervisor prior to the approval of the arrangement, and any remuneration for his services as such agreed between himself and

(i) in the case of a company, the board or, where it is in liquidation, the administrator or liquidator, or

(ii) in the case of an individual, the debtor; and

(b) any fees, costs, charges or expenses which

(i) are sanctioned by the terms of the arrangement, or

(ii) would be payable, or correspond to those which would be payable, in an administration or liquidation (in the case of a company) or in a bankruptcy (in the case of an individual).

Fixing of remuneration by Court.

17. (1) Notwithstanding the terms of the arrangement, on the application of a person referred to in subsection (4), the Court may review and fix the amount paid or to be paid by way of remuneration to a supervisor or an interim supervisor.

(2) Subject to subsection (3), the Court's power under subsection (1)

(a) extends to fixing the remuneration for any period before the making of the order or the application for it;

(b) is exercisable notwithstanding that the supervisor or interim supervisor has died or ceased to act before the making of the application or the order; and

(c) extends to requiring him or his personal representative to account for the excess or such part of it as may be specified in the order to the extent that an amount paid to or retained by the supervisor or interim supervisor as remuneration exceeds that fixed by the Court for the period concerned.

(3) The power conferred by subsection (2)(c) may not be exercised with respect to a period before the date of the application for an order under this section unless the Court is satisfied that there are special circumstances that justify it.

(4) Application to the Court for an order under subsection (1) may be made by any of the following persons

(a) the supervisor or interim supervisor; or

(b) the company or

(i) if the company is in liquidation, its liquidator, or

(ii) if the company is in administration, its administrator.

(5) In fixing the remuneration of a supervisor or interim supervisor under this section, the Court shall apply the general principles specified in section 432.

Commission's rights in respect of a regulated person.

18. Where a proposal is made, or an arrangement approved, in respect of a regulated person

(a) every notice or other document required to be sent to a creditor of the debtor under this Part shall also be sent to the Commission; and

(b) unless the applicant is the Commission, notice shall be given to the Commission of any application to the Court under this Part.

Division 2 - Company Creditors Arrangement

Interpretation and scope of Division.

19. (1) In this Division, "proposal period" means the period from the appointment of the interim supervisor to the approval or rejection by the creditors of the proposed arrangement.

(2) A foreign company may not propose or enter into an arrangement under this Division.

PROPOSAL AND INTERIM SUPERVISOR

Proposal for an arrangement by board.

20. (1) The board of a company, other than a company that is in liquidation or in administration, may propose an arrangement and nominate an interim supervisor to act in relation to the proposed arrangement if

(a) it believes on reasonable grounds that the company is insolvent or is likely to become insolvent; and

(b) it has passed a resolution

(i) stating its belief that the company is insolvent or is likely to become insolvent,

(ii) approving a written proposal containing the information prescribed, and

(iii) nominating an eligible insolvency practitioner to be appointed as interim supervisor.

(2) A director who votes in favour of a resolution under subsection (1) without having reasonable grounds for believing that the company is insolvent or is likely to become insolvent commits an offence.

Appointment of interim supervisor by board.

21. (1) Where the board of a company has passed a resolution under section 20(1)(b), it shall provide the nominated insolvency practitioner with

(a) a copy of the resolution passed;

(b) a copy of the proposal approved by the board;

(c) a statement of affairs made up to a date no earlier than two weeks prior to the date of the resolution; and

(d) a notice of intention to appoint the nominated insolvency practitioner as interim supervisor.

(2) The nominated insolvency practitioner may accept appointment as interim supervisor by delivering a copy of the notice referred to in subsection (1)(d), endorsed in accordance with the Rules, to the board within five business days of the date when the resolution was passed under section 20(1)(b).

(3) Subject to subsection (4), the appointment of an interim supervisor takes effect from the time when he delivers the endorsed notice to the board.

(4) A resolution passed under section 20(1)(b) lapses and is of no effect if the insolvency practitioner nominated in the resolution is not appointed in accordance with this section within five business days of the date when the resolution was passed.

Appointment of interim supervisor, company in administration or liquidation.

22. (1) Where a company is in administration or liquidation, the administrator or liquidator may make a proposal and appoint another eligible insolvency practitioner as the interim supervisor.

(2) Where the administrator or liquidator intends to appoint another eligible insolvency practitioner as interim supervisor, he shall provide him with

(a) a notice of intention to appoint him as interim supervisor; and

(b) a written proposal containing the information prescribed.

(3) The nominated insolvency practitioner may accept appointment as interim supervisor by delivering the notice referred to in subsection (2)(a), endorsed in accordance with the Rules, to the administrator or liquidator.

(4) The appointment of an interim supervisor under this section takes effect from the time when the endorsed notice of intention to appoint is received by the administrator or liquidator.

Administrator or liquidator acting as interim supervisor.

23. (1) An administrator or liquidator who intends to make a proposal may, instead of appointing another eligible insolvency practitioner as interim supervisor, act as the interim supervisor himself.

(2) Where the administrator or liquidator intends to act as the interim supervisor himself he shall

(a) prepare a written proposal containing the information prescribed; and

(b) sign a notice of intention to act as interim supervisor.

(3) The appointment of the administrator or liquidator as interim supervisor under this section takes effect on the date of the notice of intention to act as interim supervisor.

Notification of appointment of interim supervisor

24. (1) The interim supervisor shall, within two business days of his appointment

(a) file a notice of appointment as interim supervisor with the Registrar; and

(b) if the company is a regulated person, file a copy of the notice of his appointment with the Commission.

(2) An interim supervisor who contravenes subsection (1) commits an offence.

Functions of interim supervisor and power to obtain information.

25. (1) The functions of an interim supervisor are

(a) to prepare a report on the proposal for the creditors;

(b) to carry out any duties assigned to him by this Act or the Rules;

(c) in the case of an interim supervisor appointed by the board or by the administrator or liquidator of a company, to undertake such functions and duties as he may agree to undertake with the board or with the administrator or liquidator; and

(d) in the case of an interim supervisor appointed by the board of a company, to monitor the affairs of the company, including the conduct of its business, during the proposal period.

(2) Where an interim supervisor is appointed by the board or by the administrator or liquidator of a company, every officer of the company or the administrator or liquidator of the company, as the case may be, shall

(a) provide to the interim supervisor such documents, information and explanations as he may reasonably require for the purposes of enabling him to exercise his functions; and

(b) give the interim supervisor such assistance as he may reasonably require.

(3) On the application of the interim supervisor, the Court may make an order requiring an officer of the company to comply with subsection (2).

(4) An officer of a company who fails to comply with an order of the Court made under subsection (3) commits an offence.

Amendment of proposal before creditors' meeting.

26. (1) The board of a company or, in the case of a company that is in administration or liquidation, its administrator or liquidator, may amend a proposal in accordance with the Rules

(a) before the appointment of an interim supervisor;

(b) after the appointment of an interim supervisor but before notice of a creditors' meeting has been given under section 27; or

(c) after notice of a creditor's meeting has been given under section 27 but before the date fixed for the meeting.

(2) The board of a company may not amend a proposal unless it has passed a resolution to do so.

(3) A proposal cannot be amended otherwise than in accordance with this section or section 31.

MEETING OF CREDITORS

Calling creditors' meeting.

27. (1) The interim supervisor shall

(a) prepare a written report on the proposal complying with the Rules;

(b) call a meeting of creditors for a date no later than 28 days after the commencement of the proposal period for the purposes of considering whether to approve the proposal;

(c) send to each creditor, together with the notice of the meeting, a copy of the proposal, his report on the proposal and a copy of the company's statement of affairs;

(d) cause the creditors' meeting to be advertised;

(e) send a copy of the notice of the creditors' meeting, together with copies of the documents sent to creditors, to every member of the company; and

(f) send to every director of the company a copy of the notice of the meeting, together with copies of the documents sent to creditors.

(2) Where a proposal is amended under section 26(1)(b), this section and section 28 applies to the amended proposal as if it were the original proposal.

(3) An interim supervisor who contravenes subsection (1) commits an offence.

Interim supervisor may require certain persons to attend creditors' meeting.

28. (1) If the interim supervisor considers that it is reasonable to require the presence at a creditors' meeting called under section 27 of a person specified in subsection (4), the interim supervisor may, by notice, require the person to attend the meeting.

(2) In determining whether it is reasonable to require a person to attend the creditors' meeting, the matters that the interim supervisor shall have regard to include

(a) the likely benefits of the person's attendance;

(b) the travel and associated expenses that will be incurred by him in attending the meeting, unless the interim supervisor is prepared to pay those expenses;

(c) the distance that he would be required to travel to attend the meeting; and

(d) the time that it would take him to travel to and from and attend the meeting.

(3) A notice under subsection (1) requiring a person to attend a creditors' meeting shall be sent to that person at least 14 days prior to the date of the meeting and shall be accompanied by copies of the documents required to be sent to creditors under section 27(1)(c).

(4) Subsection (1) applies to an officer of the company and to any person who, at any time during the two years prior to the date of the notice, was an officer of the company.

(5) A person commits an offence if

(a) he receives a notice to attend a creditors' meeting under subsection (1); and

(b) without reasonable excuse, he fails to attend the meeting.

Attendance of members and directors at creditors' meeting.

29. (1) Subject to subsection (2), each member and director of a company is entitled to attend the creditors' meeting and, with the permission of the chairman, to address the meeting, but not to vote in that capacity at the meeting.

(2) The chairman of the creditors' meeting may, if he thinks fit, exclude any present or former director or other officer from attendance at the meeting, either completely or for any part of it.

(3) Subsection (2) applies whether or not the present or former director or other officer

(a) is also a member; or

(b) has been sent a notice requiring him to attend the meeting.

Business to be conducted at creditors' meeting.

30. (1) At the meeting called under section 27, the creditors may resolve

(a) to approve the proposal, with or without amendment, and appoint the interim supervisor, or another eligible insolvency practitioner, to be the supervisor of the arrangement;

(b) to adjourn the meeting to a date no later than three months after the commencement of the proposal period; or

(c) to reject the proposal.

(2) A resolution to approve a proposal is invalid and of no effect if

(a) the proposal does not comply with section 15(4);

(b) the proposal has been amended without the consent of the board or, in the case of a company in administration or liquidation, its administrator or liquidator; or

(c) the proposal has been amended otherwise than in accordance with section 26 or section 31.

(3) The proposal is deemed to be rejected, and the creditors' meeting concluded, if

(a) the creditors fail to pass one of the resolutions specified in subsection (1); or

(b) the creditors' meeting is not held on the date for which it was called or to which it was adjourned.

(4) On the rejection of a proposal the proposal period ends and the appointment of the interim supervisor is terminated.

(5) References in this section to a meeting include, where the meeting is adjourned, the adjourned meeting.

Amendment of proposal at creditors' meeting.

31. (1) Where, at a meeting called under section 27, the creditors wish to approve an amended proposal that has not been amended in accordance with section 26, the meeting shall be adjourned for sufficient time to enable the chairman of the meeting to give all creditors of the company not present or represented at the meeting at least two business days notice

(a) of the venue of the adjourned meeting; and

(b) of the amended proposal to be considered at the adjourned meeting.

(2) Where a meeting is adjourned under subsection (1), section 30 applies to the adjourned meeting.

(3) Subsection (1) does not apply if

(a) every creditor who was given notice of the meeting under section 27 is present or represented at the meeting; or

(b) the chairman certifies in writing that an amendment is to correct minor errors or is otherwise not material.

Report on outcome of creditors' meeting.

32. (1) The chairman of a creditors' meeting called under section 27 shall, within four business days of the conclusion of the meeting, prepare a report complying with subsection (2).

(2) A report prepared under subsection (1) shall

(a) state whether the proposal was approved or rejected and, if approved, with what modifications, if any;

(b) set out the resolutions put to the meeting, and the decision on each one;

(c) list the creditors, with their respective values, who were present or represented at the meeting;

(d) state whether any moratorium was extended; and

(e) include such further information, if any, that the chairman

considers should be made known to creditors.

(3) The chairman shall

(a) send a copy of his report to every creditor and every member of the company; and

(b) file a copy of his report with the Registrar.

(4) For the purposes of subsection (1), a creditors' meeting is concluded if

(a) the creditors resolve either to approve or reject the proposal; or

(b) the proposal is deemed to be rejected.

(5) A person who contravenes subsection (1) or subsection (3) commits an offence.

Notification of appointment of supervisor.

33. (1) The supervisor shall, within two business days of his appointment

(a) file a notice of appointment as supervisor with the Registrar; and

(b) if the company is a regulated person, file a copy of the notice of his appointment with the Commission.

(2) A supervisor who contravenes subsection (1) commits an offence.

Effect of approval of proposal.

34. (1) Where a proposal is approved at a creditors' meeting, the arrangement is binding on the company and on each member and each creditor of the company as if he was a party to the arrangement.

(2) For the purposes of subsection (1), a person is a creditor of the company if he has a claim against the company that would be an admissible claim in
a liquidation of the company commencing at the time of the approval of the arrangement.

IMPLEMENTATION OF ARRANGEMENT

Supervisor to be given possession of assets included in arrangement.

35. (1) After the approval of an arrangement the board or, where appropriate the administrator or liquidator, shall forthwith take all necessary steps to put the supervisor into possession of the assets included in the arrangement.

(2) The supervisor shall, on taking possession of the assets included in the arrangement

(a) where, at the time of approval, the company is in administration or liquidation

(i) promptly discharge any sums due to the administrator or liquidator under the Act or the Rules; or

(ii) provide the administrator or liquidator with a written undertaking to discharge any such sums out of the assets as soon as practicable; and

(b) where, at the time of approval, the company is in liquidation, promptly discharge any sums due to the preferential creditors.

(3) The supervisor shall, out of the assets included in the arrangement,

(a) discharge all guarantees properly given, or obligations properly entered into, by the administrator or liquidator for the benefit of the company or in the course of his duties;

(b) pay the administrator's or the liquidator's outstanding remuneration; and

(c) if as part of the arrangement, the administration order is to be discharged and the administrator released or the liquidation stayed, pay the costs of such discharge, release or stay.

(4) The following have equally ranking charges on the assets included in the arrangement, subject to the deduction of the proper costs and expenses of realisation

(a) notwithstanding his release or discharge, the administrator or liquidator of a company in respect of any monies payable under subsections (2) and (3); and

(b) each preferential creditor in respect of any monies payable to him under subsection (2).

(5) In this section, "liquidator" and "administrator" includes, where appropriate, a former liquidator or administrator.

36. (1) Where an arrangement permits or requires the supervisor

Supervisor's duty to keep accounting records.

(a) to carry on the business of the company or trade on its behalf and in its name;

(b) to realise assets of the company; or

(c) otherwise to administer or dispose of any of its funds;

he shall keep accounting records that correctly record and explain the receipts, expenditure and other transactions relating to his acts and dealings in and in connection with the arrangement.

(2) The supervisor shall retain the accounting records kept under subsection (1) for a period of not less than six years after the termination of the arrangement.

(3) A supervisor who contravenes this section commits an offence.

Supervisor to prepare and send out regular accounts and reports.

37. (1) The supervisor shall prepare accounts of his receipts and payments, if any, and reports concerning the progress and efficacy of the arrangement covering the periods specified in subsection (2).

(2) The accounts and reports prepared under subsection (1) shall cover

(a) the period of 12 months following the supervisor's appointment;

(b) each subsequent period of 12 months; and

(c) where the supervisor ceases to act as supervisor

(i) the period from the end of the period covered by the last accounts required to be prepared under this section, or if he acted as supervisor for less than 12 months from the date of his appointment, to the date of his ceasing to act, and

(ii) the period from the date of his appointment to the date of his ceasing to act, unless prepared in accordance with subsection (2)(c)(i).

(3) The supervisor shall, within sixty days of the last day of the period covered by the accounts

(a) file a copy of the accounts and his report with the Registrar; and

(b) send a copy of the accounts and his report to

(i) the company,

(ii) each creditor of the company, and

(iii) each member of the company.

(4) The Court, on the application of the supervisor, may dispense with the sending of the accounts and report prepared under subsection (1) to the members of the company.

(5) A supervisor who contravenes this section commits an offence.

Completion of arrangement.

38. (1) Where an arrangement is completed, the supervisor shall, within 28 days of its completion

(a) file a notice of completion with the Registrar; and

(b) send a notice of completion to the company and to each creditor and member of the company.

(2) Where an arrangement is completed, the report prepared under section 37(2)(c) shall explain any material difference between the implementation of the arrangement and the proposal approved by the creditors.

(3) A supervisor who contravenes this section commits an offence.

MODIFICATION OF ARRANGEMENT

Supervisor may propose modification of arrangement.

39. (1) In this section and in section 40

(a) "creditor", in relation to an arrangement, means a creditor bound by that arrangement; and

(b) "proposal" means a proposal to modify an arrangement.

(2) If the supervisor of an arrangement considers it appropriate, he may propose a modification of the arrangement at a meeting of creditors called for such a purpose.

(3) The supervisor shall call a meeting of creditors under subsection (2) by sending to each creditor

(a) a notice of the meeting; and

(b) a written report on the proposed modification complying with the Rules.

(4) The supervisor shall send a copy of the notice of the meeting and his report on the proposed modification to each member and director of the company.

Modification of arrangement.

40. (1) Unless the Rules otherwise provide, sections 28, 29, 30 and 32 and the relevant Rules apply, with suitable modifications, to a meeting called under section 39.

(2) Where a proposal to modify an arrangement is approved

(a) the modified arrangement is binding on the company and on each member and each creditor of the company as if he had agreed to the modification; and

(b) the provisions of this Division applicable to an arrangement apply to the modified arrangement.

(3) An arrangement may not be modified otherwise than in accordance with section 39 and this section.

APPLICATIONS TO COURT

Appointment of interim supervisor or supervisor by Court.

41. (1) The Court may, on an application made by a person and in the circumstances specified in subsection (2), order that an eligible insolvency practitioner, is appointed as supervisor or interim supervisor either in substitution for the existing supervisor or interim supervisor or to fill a vacancy.

(2) An application under subsection (1) may be made

(a) where the supervisor or interim supervisor has failed to comply with a duty imposed upon him under this Division or has died, by the board of the company, or where it is in administration or liquidation by the administrator or liquidator; or

(b) where it is impracticable or inappropriate for the existing supervisor or interim supervisor to continue to act, by the board of the company, or where it is in administration or liquidation by the administrator or liquidator, or by the supervisor or interim supervisor.

(3) An order under subsection (1) may increase the number of persons acting as supervisor or interim supervisor or replace one or more of those persons.

Application where arrangement approved or modified.

42. (1) Where an arrangement is approved or modified, the Court may

(a) on an application made by a person specified in subsection (2)

(i) give directions to the supervisor in relation to any matter arising,

(ii) confirm, reverse or modify any act or decision of the supervisor, or

(iii) make such other order as it considers fit; or

(b) on an application made by the supervisor or, if appropriate the administrator or liquidator

(i) discharge the administration order or stay the liquidation, and

(ii) give such directions regarding the administration or liquidation as it considers appropriate.

(2) Application under subsection (1)(a) may be made by the supervisor, by any administrator or liquidator, by a creditor, director or member of the company, by a surety of a liability of the company, by a co-debtor of the company, by a person affected by the arrangement or, where the company is a regulated person, by the Commission.

(3) The Court shall not make an order under subsection (1)(b)

(a) until a period of 28 days after the chairman's report is filed under section 32(3); or

(b) at any time when an application under section 43, or an appeal in respect of such an application is outstanding or during the period within which such an appeal may be brought.

Application on grounds of unfair prejudice.

43. (1) An application may be made by a person specified in subsection (2) for an order under subsection (3) on one or both of the following grounds:

(a) that an arrangement approved or modified by the creditors unfairly prejudices the interests of a member, creditor, surety or co-debtor of the company; or

(b) that there has been a material irregularity at or in relation to the meeting at which the arrangement was approved or modified.

(2) An application for an order under subsection (3) may be made by

(a) a member, creditor, surety or co-debtor of the company;

(b) the supervisor or the person who, immediately prior to the approval of the arrangement, acted as interim supervisor;

(c) where the company is in administration, the administrator;

(d) where the company is in liquidation, the liquidator; or

(e) where the company is a regulated person, the Commission.

(3) Where it is satisfied as to either of the grounds specified in subsection (1), the Court

(a) may revoke or suspend

(i) any decision approving or modifying the arrangement, or

(ii) any decision taken at a meeting at or in relation to which there was a material irregularity; and

(b) may give a direction to any person

(i) for the calling of a further meeting to consider any amended proposal for an arrangement that the board or the supervisor may make,

(ii) for the calling of a further meeting to consider any amended proposal for a modification of the arrangement that the supervisor may make, or

(iii) where there has been a material irregularity, for the calling of a further creditors' meeting to reconsider the proposal for the arrangement or for the modification of an arrangement.

(4) Where at any time after giving a direction under subsection (3)(b)(i) or (ii), the Court is satisfied that the board, or the supervisor, does not intend to submit an amended proposal, the Court shall revoke the direction and revoke or suspend any decision approving the arrangement or the modification of an arrangement.

(5) Where the Court, on an application under this section, gives a direction under subsection (3)(b) or revokes or suspends a decision under subsection (3)(a) or (4), the Court may give such supplemental directions as it considers fit and, in particular, directions with respect to things done under the arrangement since it, or any modification, took effect.

(6) Except as provided in this section, a decision taken at a meeting called under section 27 or 39 is not invalidated by any irregularity at or in relation to the meeting.

(7) Without limiting subsection (1)(a), the interests of a member, creditor, surety or co-debtor of the company are capable of being unfairly prejudiced on the grounds that the remuneration paid or to be paid to the supervisor is excessive.

Application to Court by former supervisor or interim supervisor.

44. Where an application may be made to the Court by a supervisor or an interim supervisor under section 41, 44, 42 or 43, an application may, with the leave of the Court, be made by the person who was the supervisor or interim supervisor immediately before

(a) the termination of his appointment;

(b) the termination of the arrangement; or

(c) the termination of the proposal period;

as the case may be.

OFFENCES

False representations etc.

45. An officer of a company who makes any false representation or who fraudulently does, or omits to do, anything for the purpose of obtaining the approval of the creditors of the company to an arrangement commits an offence.

Division 3 - Individual Creditors' Arrangement

Interpretation for and scope of this Division.

46. (1) In this Division,

"debtor" means an individual who intends to make or who has made a proposal under this Division; and

"interested person" means,

(a) in relation to a security interest, the person entitled to the security interest or any receiver appointed under the security interest,

(b) in relation to an asset not belonging to a debtor which is used or occupied by or in the possession of the debtor, the owner or lessor of the asset,

(c) in relation to proceedings, execution or legal process, including distress, a person who is entitled to commence or continue the proceedings, execution or legal process or levy the distress, and

(d) in relation to a guarantee of a liability of the debtor, the person entitled to enforce the guarantee;

"proposal period", means the period from the appointment of the interim supervisor to the approval or rejection by the creditors of the proposed arrangement.

(2) An undischarged bankrupt may not make a proposal under this Division.

(3) Where the context allows, a reference in this Division to the extension of a moratorium period includes a further extension of the moratorium period.

PROPOSAL

Proposal.

47. (1) A debtor who intends to make a proposal under this Division shall

(a) nominate an insolvency practitioner to act as interim supervisor for the purposes of the proposal; and

(b) provide the nominated insolvency practitioner with

(i) a copy of the proposal,

(ii) a statement of assets and liabilities made up to a date no earlier than four weeks prior to the date upon which it is provided to the nominated insolvency practitioner, and

(iii) a notice of intention to appoint the nominated insolvency practitioner as interim supervisor.

(2) The nominated insolvency practitioner may accept appointment as interim supervisor, by delivering to the debtor a copy of the notice referred to in subsection (1)(b), endorsed in accordance with the Rules.

(3) Subject to subsection (4), the appointment of an interim supervisor takes effect from the time when he delivers the endorsed notice to the debtor.

(4) The appointment of an interim supervisor is not effective unless he accepts appointment under subsection (2) within five business days of the date of receiving the notice of intention to appoint him as interim supervisor from the debtor.

Notification of appointment of interim supervisor.

48. (1) If the debtor is a regulated person, the interim supervisor shall, within two business days of his appointment file a copy of the notice of his appointment with the Commission.

(2) An interim supervisor who contravenes subsection (1) commits an offence.

Functions of interim supervisor and power to obtain information.

49. (1) The functions of an interim supervisor are

(a) to prepare a report on the proposal for the Court;

(b) to carry out any duties assigned to him by this Act or the Rules or by the Court;

(c) to undertake such functions and duties as he may agree with the debtor; and

(d) to monitor the affairs of the debtor, including the conduct of any business carried on by the debtor, during the proposal period.

(2) For the purposes of enabling the interim supervisor to exercise his functions, a debtor shall

(a) provide to the interim supervisor such documents, information and explanations as he may reasonably require; and

(b) give the interim supervisor such assistance as he may reasonably require.

(3) On the application of the interim supervisor, the Court may make an order requiring a debtor to comply with subsection (2).

(4) A debtor who fails to comply with an order of the Court made under subsection (3) commits an offence.

Amendment of proposal after appointment of interim supervisor.

50. (1) A debtor may amend a proposal in accordance with the Rules

(a) before the appointment of an interim supervisor;

(b) after the appointment of an interim supervisor but before notice of a creditors' meeting has been given under section 58; or

(c) after notice of a creditor's meeting has been given under section 58 but before the date fixed for the meeting.

(2) A proposal cannot be amended otherwise than in accordance with this section or section 60.

MORATORIUM

Application for moratorium order.

51. (1) A debtor who intends to make a proposal may apply to the Court for a moratorium order under this section if

(a) he is entitled to apply to the Court for a bankruptcy order under section 295;

(b) an eligible insolvency practitioner has accepted appointment as interim supervisor under the proposal in accordance with section 47;

(c) no previous application for a moratorium has been made by the debtor during the 12 months immediately preceding the date of the application; and

(d) he is not a regulated person.

(2) An application under subsection (1) shall be supported by an affidavit setting out the matters prescribed and exhibiting

(a) a copy of the proposal provided to the interim supervisor under section 47(1)(b);

(b) a copy of the endorsed notice of appointment of the interim supervisor; and

(c) a statement of assets and liabilities.

(3) The debtor shall give two business days notice of the hearing of an application under this section to

(a) the interim supervisor; and

(b) any creditor who, to his knowledge, has applied to the Court for a bankruptcy order against him.

Court may grant stay.

52. (1) At any time when an application under section 51 for a moratorium order is pending, the Court may, on the application of the debtor or the interim supervisor, stay any action, execution or other legal process against the debtor or his assets.

(2) Any Virgin Islands court, or any tribunal in the Virgin Islands, in which proceedings are pending against a debtor may, on proof that an application under section 51 has been made by the debtor, either stay those proceedings or allow them to continue on such terms as it considers just.

Moratorium order.

53. (1) The Court may make a moratorium order on an application under section 51 if it considers that it would be appropriate to do so for the purpose of facilitating the consideration of the debtor's proposal.

(2) Unless extended by the Court under this section, a moratorium order ceases to have effect at the end of the fourteenth day after the date upon which it is made.

(3) If the Court makes a moratorium order under subsection (1), it shall at the same time fix a venue for consideration of the interim supervisor's report under section 56, no later than the date of expiry of the moratorium order under subsection (2).

(4) In a case where the interim supervisor has failed to submit his report as required by section 56, the Court may, on the application of the debtor, direct that the moratorium order shall continue or, if it has ceased to have effect, be renewed for such further period as the Court may order.

(5) The Court may, on the application of the interim supervisor, extend the period for which the moratorium order has effect so as to enable the interim supervisor to have more time to prepare and submit his report under section 56.

(6) The Court may, at any time, discharge the moratorium order if it is satisfied, whether by reason of a report made to it by the interim supervisor under section 54 or otherwise

(a) that the debtor has failed to comply with his obligations under section 49(2);

(b) that it would not be appropriate for a meeting of creditors to be called to consider the debtor's proposal; or

(c) that, for any other reason, it is appropriate for the moratorium order to be discharged.

(7) An order discharging the moratorium order may be made by the Court on the application of the debtor or the interim supervisor or on its own motion.

Duty of interim supervisor to report certain matters to the Court.

54. The interim supervisor shall report to the Court forthwith if, at any time during the period when a moratorium order is in force

(a) he forms the view that the proposed arrangement no longer has a reasonable prospect of being approved or implemented; or

(b) the debtor fails to comply with his obligations under section 49(2).

Effect of moratorium order.

55. (1) In the period during which a moratorium order is in force in respect of a debtor

(a) no application for a bankruptcy order against the debtor may be presented or proceeded with;

(b) no bankruptcy order may be made against the debtor;

(c) no steps may be taken to enforce any security interest over the debtor's assets, except with the leave of the Court;

(d) no steps may be taken to repossess assets that are being used or occupied by or are in the possession of the debtor, including

(i) goods supplied under a hire purchase, conditional sale or chattel leasing agreement; and

(ii) goods supplied subject to a retention of title agreement,

except with the leave of the Court; and

(e) no proceedings, execution or other legal process may be commenced or continued or distress levied against the debtor or his assets, except with the leave of the Court;

(2) On an application for leave under paragraphs (c) to (e) of subsection (1), the Court may grant leave subject to such terms and conditions as it considers fit.

(3) Subsection (1) does not prevent or require the leave of the Court to be obtained for

(a) the enforcement of a security interest on assets belonging to a debtor if, before the commencement of the moratorium period, an

interested person lawfully

(i) entered into possession of or assumed control of the assets, or

(ii) entered into a binding agreement to sell the assets,

for the purpose of enforcing the security interest on those assets;

(b) the repossession of assets being used or occupied by or in the possession of a company if, before the commencement of the moratorium period, an interested person lawfully entered into possession, or assumed control of those assets; or

(c) the exercise by a creditor of any set-off that he would have been entitled to exercise under section 150 if the debtor was in bankruptcy, the bankruptcy having commenced on the date that the moratorium order was made.

CONSIDERATION OF PROPOSAL

Interim supervisor's report on debtor's proposal.

56. (1) An interim supervisor shall, before the end of the relevant time limit specified in subsection (3), file with the Court a report including the matters prescribed in the Rules.

(2) An interim supervisor shall file with the report

(a) where the debtor made an application for a moratorium order under section 51 and the proposal has since been amended, a copy of the amended proposal; or

(b) where the debtor has not made an application for a moratorium order, copies of the documents referred to in paragraphs (a) to (c) of section 51(2).

(3) The relevant time limits for the purposes of subsection (1) are

(a) where a moratorium order has been made, no less than two business days prior to the date of the hearing fixed under section 53(3);

(b) in any other case, within 14 days after the date of the appointment of the interim supervisor.

(4) The Court may, on the application of the interim supervisor, extend the period within which the interim supervisor shall submit his report under subsection (1) by such further period as it considers appropriate.

Extension of moratorium.

57. (1) This section applies where a moratorium order is in force at the time when the interim supervisor files his report with the Court.

(2) If, on receiving the interim supervisor's report, the Court is satisfied that a meeting of creditors should be called to consider the debtor's proposal, the Court shall extend the period for which the moratorium order is in force for such further period as it may specify for the purpose of enabling the debtor's proposal to be considered by his creditors in accordance with this Division and for the result of the creditors' meeting to be reported to the Court.

Calling creditors' meeting.

58. (1) Unless the Court otherwise orders, where the interim supervisor has reported to the Court that a meeting of creditors should be called, he shall

(a) call a meeting of creditors at the venue proposed in his report; and

(b) send to each creditor, together with the notice of the meeting, a copy of the debtor's proposal, his report on the proposal and a copy of the debtor's statement of assets and liabilities.

(2) An interim supervisor who contravenes subsection (1) commits an offence.

Decisions of creditors' meetings.

59. (1) At the meeting called under section 58, the creditors may resolve

(a) to approve the proposal, with or without amendment, and appoint the interim supervisor, or another eligible insolvency practitioner, to be the supervisor of the arrangement;

(b) to adjourn the meeting to a date no later than 28 days after the date for which the meeting was originally called; or

(c) to reject the proposal.

(2) A resolution to approve a proposal is invalid and of no effect if

(a) the proposal does not comply with section 15(4);

(b) the proposal has been amended without the consent of the debtor; or

(c) the proposal has been amended otherwise than in accordance with section 50 or section 60.

(3) The proposal is deemed to be rejected, and the creditors' meeting concluded, if

(a) the creditors fail to pass one of the resolutions specified in subsection (1); or

(b) the creditors' meeting is not held on the date for which it was called or to which it was adjourned.

(4) Where a meeting of creditors is adjourned, the chairman shall forthwith file a notice of the adjournment with the Court and the Court may, on the application of the debtor or the interim supervisor, extend the period for which the moratorium order is in force for such further period as it may specify for the purpose of enabling the adjourned meeting to be held and for the result to be reported to the Court.

(5) References in this section and section 60 to a meeting include, where the meeting is adjourned, an adjourned meeting.

Amendment of proposal at creditors' meeting.

60. (1) Where, at a meeting held under section 59, the creditors wish to approve an amended proposal that has not been amended in accordance with section 50, the meeting shall be adjourned for sufficient time to enable the chairman of the meeting to give all creditors not present or represented at the meeting at least two business days notice

(a) of the venue of the adjourned meeting; and

(b) of the amended proposal to be considered at the adjourned meeting.

(2) Where a meeting is adjourned under subsection (1), section 59 applies to the adjourned meeting.

(3) Subsection (1) does not apply

(a) if every creditor who was given notice of the meeting under 58 is present or represented at the meeting; or

(b) if the chairman certifies in writing that an amendment is to correct minor errors or is otherwise not material.

Report of decisions to Court.

61. (1) The chairman of a creditors' meeting called under section 58 shall, within four business days of the date of the conclusion of the meeting

(a) file with the Court a report of the meeting complying with

subsection (2);

(b) file a notice of the arrangement with the Official Receiver; and

(c) if the debtor is a regulated person, file notice of the arrangement with the Commission.

(2) A report filed under subsection (1)(a) shall

(a) state whether the proposal was approved or rejected and, if approved, with what modifications, if any;

(b) set out the resolutions put to the meeting, and the decision on each one;

(c) list the creditors, with their respective values, who were present or represented at the meeting; and

(d) include such further information, if any, that the chairman considers should be made known to the Court.

(3) If a report filed under subsection (1)(a) states that the meeting has rejected the proposal, any moratorium order in force is discharged with effect from the end of the fourth business day after the conclusion of the meeting unless the Court otherwise orders.

(4) The chairman of the meeting shall, as soon as practicable after filing his report with the Court, send a notice stating the result of the meeting to all creditors of the debtor.

(5) A person who contravenes subsection (1) or subsection (4) commits an offence.

Effect of approval.

62. (1) Where the meeting of creditors called under section 58 approves the proposed arrangement, the arrangement

(a) takes effect as if made by the debtor at the meeting; and

(b) is binding on the debtor and each creditor of the debtor as if he were a party to the arrangement.

(2) For the purposes of subsection (1), a person is a creditor of the debtor if he has a claim against the debtor that would be an admissible claim in the bankruptcy of the debtor commencing at the time of the approval of the arrangement.

(3) If

(a) when the arrangement ceases to have effect any amount payable under the arrangement to a person bound by the arrangement has not been paid; and

(b) the arrangement did not come to an end prematurely;

the debtor shall, at that time, become liable to pay to that person the amount payable under the arrangement.

(4) For the purposes of subsection (3), an arrangement comes to an end prematurely if, when it ceases to have effect, it has not been fully implemented in respect of all persons bound by the arrangement.

(5) Subject to section 72, any moratorium order in force in relation to the debtor immediately before the end of the period of 28 days beginning with the day on which the report with respect to the creditors' meeting was filed with the Court under section 61 ceases to have effect at the end of that period.

(6) Where proceedings on an application for a bankruptcy order have been stayed by a moratorium order which ceases to have effect under subsection (2), that application is deemed, unless the Court otherwise orders, to have been dismissed.

IMPLEMENTATION OF ARRANGEMENT

Supervisor to be given possession of assets included in arrangement.

63. After the approval of an arrangement the debtor shall forthwith take all necessary steps to put the supervisor into possession of the assets included in the arrangement.

Supervisor's duty to keep accounting records.

64. (1) Where an arrangement permits or requires the supervisor

(a) to carry on the debtor's business or trade on his behalf or in his name;

(b) to realise assets of the debtor; or

(c) otherwise to administer or dispose of any of the debtor's funds;

he shall keep accounting records that correctly record and explain the receipts, expenditure and other transactions relating to his acts and dealings in and in connection with the arrangement.

(2) The supervisor shall retain the accounting records kept under subsection (1) for a period of not less than 6 years after the termination of the arrangement.

(3) A supervisor who contravenes this section commits an offence.

Supervisor to prepare and send out regular accounts and reports.

65. (1) The supervisor shall prepare accounts of his receipts and payments, if any, and reports concerning the progress and efficacy of the arrangement covering the periods specified in subsection (2).

(2) The accounts and reports prepared under subsection (1) shall cover

(a) the period of 12 months following the supervisor's appointment;

(b) each subsequent period of 12 months; and

(c) where the supervisor ceases to act as supervisor

(i) the period from the end of the period covered by the last accounts required to be prepared under this section, or if he acted as supervisor for less than 12 months from the date of his appointment, to the date of his ceasing to act, and

(ii) the period from the date of his appointment to the date of his ceasing to act, unless prepared in accordance with subparagraph (i).

(3) The supervisor shall, within sixty days of the last day of the period covered by the accounts

(a) file a copy of the accounts and his report with the Court; and

(b) send a copy of the accounts and his report to

(i) the Court,

(ii) the debtor, and

(iii) each creditor of the debtor.

(4) A supervisor who contravenes this section commits an offence.

Completion of arrangement.

66. (1) Where an arrangement is completed, the supervisor shall, within 28 days of its completion, file a notice of completion with the Court and send a copy of the notice to the debtor and to each creditor of the debtor.

(2) Where an arrangement is completed, the report prepared under section 61 shall explain any difference between the implementation of the agreement and the proposal approved by the creditors.

(3) A supervisor who contravenes this section commits an offence.

MODIFICATION OF ARRANGEMENT

Supervisor may propose modification of arrangement.

67. (1) In this section and in section 68

(a) "creditor", in relation to an arrangement, means a creditor bound by that arrangement; and

(b) "proposal" means a proposal to modify an arrangement.

(2) If the supervisor of an arrangement considers it appropriate, he may propose a modification of the arrangement at a meeting of creditors called for such a purpose.

(3) The supervisor shall call a meeting of creditors under subsection (1) by sending to each creditor

(a) a notice of the meeting; and

(b) a written report on the proposed modification complying with the Rules.

(4) The supervisor shall send a copy of the notice of the meeting and his report on the proposed modification to the debtor.

Modification of arrangement.

68. (1) Subject to the exceptions specified in the Rules, sections 59 and 61 and the relevant Rules apply, with suitable modifications, to a meeting called under section 67.

(2) Where a proposal to modify an arrangement is approved

(a) the modified arrangement is binding on the debtor and on each creditor of the debtor as if he had agreed to the modification; and

(b) the provisions of this Division applicable to an arrangement apply to the modified arrangement.

(3) An arrangement may not be modified otherwise than in accordance with section 67 and this section.

APPLICATIONS TO COURT

Appointment of interim supervisor or supervisor.

69. (1) The Court may, on an application made by a person and in the circumstances specified in subsection (2), order that an eligible insolvency practitioner who has filed with the Court a notice of consent to act, is appointed as supervisor or interim supervisor either in substitution for the existing supervisor or interim supervisor or to fill a vacancy.

(2) An application under subsection (1) may be made

(a) where the interim supervisor has failed to submit the report required by section 56, on the application of the debtor;

(b) where the supervisor or interim supervisor has failed to comply with a duty imposed upon him under this Division or has died, by the debtor;

(c) where it is impracticable or inappropriate for the existing supervisor or interim supervisor to continue to act, by the debtor or by the supervisor or interim supervisor; or

(d) where the individual is a regulated person, by the Commission.

(3) An order under subsection (1) may increase the number of persons acting as supervisor or interim supervisor or replace one or more of those persons.

Application in respect of moratorium.

70. (1) Where a moratorium order is or has been in force in respect of a debtor, the Court may, on an application made by the debtor, by the supervisor or interim supervisor, by a creditor, by a person affected by the moratorium or, where the individual is a regulated person, by the Commission

(a) give directions to the supervisor or interim supervisor in relation to any matter arising in connection with the moratorium;

(b) confirm, reverse or modify any act or decision of the supervisor or interim supervisor;

(c) terminate the moratorium order and make such consequential provisions as it considers fit; or

(d) make such other order, whether in relation to the supervisor or interim supervisor, the debtor or otherwise as it considers fit.

(2) Without limiting subsection (1)(d), an order under that subsection

(a) may require the debtor to refrain from doing or continuing an act complained of by the applicant, or to do an act that the applicant has complained he has omitted to do;

(b) may require the calling of a meeting of creditors for the purpose of considering such matters as the Court may direct; and

(c) may make such provision as the Court considers necessary to protect the interests of one or more creditors in the period during which the moratorium order is in force.

(3) An application under subsection (1) may be made during the period in which the moratorium order is in force or after the moratorium order has been discharged.

(4) In making an order under this section, the Court shall have regard to the need to safeguard the interests of persons who have dealt with the debtor in good faith and for value.

Application where arrangement approved or modified.

71. (1) Where an arrangement is approved or modified, the Court may, on an application made by a person specified in subsection (2)

(a) give directions to the supervisor in relation to any matter arising in connection with the arrangement;

(b) confirm, reverse or modify any act or decision of the supervisor; or

(c) make such other order as it considers fit.

(2) Application under subsection (1) may be made by the supervisor, by the debtor, by a creditor of the debtor, by a surety of a liability of the debtor, by a co-debtor of the debtor, by a person affected by the arrangement or, where the individual is a regulated person, by the Commission.

Application on grounds of unfair prejudice.

72. (1) An application may be made by a person specified in subsection (2) for an order under subsection (3) on one or both of the following grounds:

(a) that an arrangement approved or modified by the creditors at a meeting called under section 58 unfairly prejudices the interests of a creditor, surety or co-debtor; or

(b) that there has been a material irregularity at or in relation to the meeting at which the arrangement was approved or modified.

(2) An application for an order under subsection (1) may be made by

(a) the debtor;

(b) the supervisor or the person who, immediately prior to the approval of the arrangement, acted as interim supervisor;

(c) a creditor, surety or co-debtor of the debtor; or

(d) where the individual is a regulated person, by the Commission.

(3) Where it is satisfied as to either of the grounds specified in subsection (1), the Court may

(a) revoke or suspend

(i) any decision approving or modifying the arrangement, or

(ii) any decision taken at a meeting at or in relation to which there was a material irregularity;

(b) give a direction to any person

(i) for the calling of a further meeting to consider any amended proposal for an arrangement that the supervisor or the debtor may make,

(ii) for the calling of a further meeting to consider any amended proposal for a modification of the arrangement that the supervisor may make,

(iii) where there has been a material irregularity, for the calling of a further creditors' meeting to reconsider the proposal for the arrangement or for the modification of an arrangement.

(4) Where at any time after giving a direction under subsection (3)(b)(i), the Court is satisfied that the debtor does not intend to submit an amended proposal, the Court shall revoke the direction and revoke or suspend any decision approving the arrangement or the modification of the arrangement.

(5) Where the Court, on an application under this section gives a direction under subsection (3)(b) or revokes or suspends a decision under subsection (4), the Court may

(a) direct that any moratorium order in place be continued or, if it has ceased to have effect, be renewed for such further period as the Court may order; and

(b) give such supplemental directions as it considers fit and, in particular, directions with respect to things done under the arrangement since it took effect.

(6) Except as provided in this section, a decision taken at a meeting called under section 58 is not invalidated by any irregularity at or in relation to the meeting.

(7) Without limiting subsection (1)(a), the interests of a member, creditor, surety or co-debtor of the company are capable of being unfairly prejudiced on the grounds that the remuneration paid or to be paid to the supervisor is excessive.

MISCELLANEOUS

Register of arrangements.

73. (1) The Official Receiver shall maintain a register of arrangements made under this Division and shall record in the register all matters that are required to be reported to him under this Division or under the corresponding Division in the Rules.

(2) A member of the public is entitled to inspect the register maintained under subsection (1) on payment of the prescribed fee.

OFFENCES

False representations etc.

74. (1) A debtor who makes any false representation or who fraudulently does, or omits to do, anything for the purpose of obtaining the approval of his creditors to an arrangement commits an offence.

(2) Subsection (1) applies whether or not the proposal is approved.

PART III

ADMINISTRATION

PRELIMINARY

Interpretation for and scope of this Part.

75. (1) In this Part,

"interested person" means,

(a) in relation to a security interest, the person entitled to the security interest or any receiver appointed under the security interest,

(b) in relation to an asset not belonging to a company which is used or occupied by or in the possession of the company, the owner or lessor of the asset,

(c) in relation to proceedings, execution or legal process, including distress, a person who is entitled to commence or continue the proceedings, execution or legal process or levy the distress, and

(d) in relation to a guarantee of a liability of the company, the person entitled to enforce the guarantee;

"moratorium period" is the period specified in section 83(1).

(2) An administration order may not be made in respect of a foreign company.

ADMINISTRATION ORDERS

Meaning of administration order.

76. (1) An administration order is an order directing that, during the period for which the order is in force, the business, assets and affairs of a company shall be managed by an administrator appointed by the Court with a view to achieving one or more of the following purposes:

(a) the rehabilitation of the company or of one or more companies in a group of companies of which the company is a member;

(b) the survival of all or any part of the company's undertaking as a going concern;

(c) a better return for the company's creditors than would result from an immediate liquidation;

(d) the approval of a creditors' arrangement under Part **II**;

(e) to facilitate an application, or the provision of cooperation, under Part **XVIII** or Part **XIX**.

(2) Where an administration order is made in respect of a company, that company is referred to in this Act as "in administration" until the discharge of the order.

(3) For the purposes of subsection (1)(a) a "group of companies" comprises a holding company and its subsidiaries.

(4) In subsection (3), "company" means any body corporate.

Court may make an administration order.

77. (1) Subject to subsections (3) and (4), section 78(2) and section 79(2), the Court may, on application by a person specified in subsection (2), make an administration order in respect of a company if

(a) it is satisfied that the company is or is likely to become insolvent; and

(b) it considers that there is a reasonable prospect that the making of the order will achieve one or more of the purposes specified in section 76(1).

(2) Application for an administration order may be made by one or more of the following:

(a) the company;

(b) a creditor;

(c) the supervisor of an arrangement in respect of the company; and

(d) the Commission, where the company

(i) is or has been a regulated person, or

(ii) is carrying on, or has carried on, unlicensed financial services business.

(3) An application for an administration order shall be served not less than five business days prior to the date fixed for the hearing

(a) on any person who has appointed or is or may be entitled to appoint an administrative receiver for the company;

(b) if an administrative receiver has been appointed, on him;

(c) if the application is made by any person other than the company, on the company;

(d) if an application has been made for the appointment of a liquidator of the company, on the applicant and on any provisional liquidator of the company;

(e) on any person who, to the applicant's knowledge, is charged with an execution or other legal process against the company or its assets;

(f) on any person who, to the applicant's knowledge, has distrained against the company or its assets; and

(g) on the Commission if

(i) the company is or has been a regulated person; and

(ii) the applicant is not the Commission.

(4) Without limiting section 496(2)(b), an administration order shall not be made unless service of the application has been effected on the persons specified in subsection (3).

(5) An application for an administration order may not be withdrawn except with the leave of the Court.

Application in respect of insurance companies.

78. (1) Where an application for an administration order is made by the Commission in respect of an insurance company, for the purposes of section 77(1)(a), the insurance company is deemed to be insolvent if the total value of its assets does not exceed the total amount of its liabilities by at least the minimum margin of solvency prescribed in respect of the company in the Insurance Regulations, 1995.

S.I. No. 10 of 1995

(2) An application for an administration order may not be made in respect of an insurance company unless the Commission has consented in writing.

Powers of Court on hearing of application for administration order.

79. (1) Subject to subsection (2), on the hearing of an application for an administration order, the Court may

(a) make an administration order in respect of the company;

(b) dismiss the application;

(c) adjourn the hearing conditionally or unconditionally;

(d) make any interim order or other order that it considers fit; or

(e) treat the application as an application for the appointment of a liquidator and make any order that it could make under section 167.

(2) Subject to section 80, an application for an administration order shall be dismissed if

(a) the company is in liquidation;

(b) the Court is satisfied that a qualifying administrative receiver has been appointed for the company who, in accordance with section 142(2) is entitled to act, unless the Court is also satisfied

(i) that the person by whom or on whose behalf the administrative receiver was appointed consents to the making of an order; or

(ii) that any security interest under which the administrative receiver was appointed would, if an administration order was made, be liable to be set aside as a voidable transaction under Part **VIII**; or

(c) in the case of an insurance company, the Commission has not consented in writing to the application being made.

(3) For the purposes of subsection (2), an administrative receiver is a qualifying administrative receiver if

(a) he is a licensed insolvency practitioner, whether or not he has been appointed to act jointly with an overseas insolvency practitioner, within the meaning of section 473; and

(b) notice of his appointment was filed with the Registrar under section 118(1) not less than four business days after service of the application for the administration order was served upon the person who appointed him.

(4) Where the Court makes an administration order it shall, at the same time, appoint an eligible insolvency practitioner to be the administrator of the company.

(5) If the Court makes an order under subsection (1)(c), it shall give directions as to the persons to whom, and how, notice is to be given.

Application where company in liquidation.

80. (1) The liquidator of a company may apply to the Court for an administration order.

(2) If the Court makes an administration order on the application of the liquidator of a company,

(a) the Court

(i) shall discharge the order appointing the liquidator,

(ii) shall make provision for such matters as may be prescribed,

(iii) may make such consequential provision as it considers appropriate, and

(iv) shall specify which of the powers of an administrator are to be exercisable by the administrator; and

(b) this Part has effect with such modifications as the Court may specify.

Effect of administration order.

81. Where the Court makes an administration order,

(a) any application for the appointment of a liquidator shall be dismissed; and

(b) any administrative receiver of the company is deemed to have vacated office.

Notification and advertisement of administration order.

82. (1) Where an administration order is made, the administrator shall

(a) forthwith, after the making of the order, give notice of his appointment to

(i) any person who has appointed, or who may be entitled to appoint, an administrative receiver of the company,

(ii) any administrative receiver who has been appointed, and

(iii) if an application for the appointment of a liquidator is pending, to the applicant and to any provisional liquidator that may have been appointed;

(b) within five days of the making of the order

(i) advertise the order and his appointment as administrator, and

(ii) file a notice of his appointment together with a sealed copy of the order with the Registrar and, if the company in administration is or has been a regulated person, with the Commission; and

(c) within 28 days of the order, send a notice in the prescribed form to the company and to every creditor of the company.

(2) An administrator who, without reasonable excuse, fails to comply with subsection (1) commits an offence.

MORATORIUM

Moratorium period.

83. (1) Subject to subsection (2), a moratorium period in respect of a company commences on the filing of an application for an administration order and terminates on

(a) the dismissal of the application for an administration order; or

(b) if an administration order is made, upon the discharge of that order.

(2) If an application for an administration order is filed at a time when an administrative receiver of the company is in office and the person by or on whose behalf the administrative receiver was appointed has not consented to the making of an order, the moratorium period does not commence unless and until

(a) that person so consents in writing;

(b) the administrative receiver vacates or is deemed to vacate office; or

(c) an administration order is made.

Effect of moratorium.

84. (1) Subject to subsections (3), (4) and (5), during the moratorium period

(a) no order may be made and, notwithstanding paragraph (f), no resolution may be passed for the appointment of a liquidator or a provisional liquidator;

(b) no steps may be taken to enforce any security interest over the company's assets, except with the leave of the Court or, if the company is in administration, with the consent of the administrator;

(c) except with the leave of the Court or, if the company is in administration, with the consent of the administrator, no steps may be taken to repossess assets that are being used or occupied by or are in the possession of the company, including

(i) goods supplied under a hire purchase, conditional sale or chattel leasing agreement, and

(ii) goods supplied subject to a retention of title agreement;

(d) no proceedings, execution or other legal process may be commenced or continued or distress levied against the company or its assets except with the leave of the Court or, if the company is in administration, with the consent of the administrator;

(e) no share may be transferred and no alteration may be made in the status of the members of the company, whether by an amendment of the memorandum or articles or in any shareholders' or members' agreement or otherwise, except with the leave of the Court; and

(f) no resolution of the members may be passed except with the leave of the Court or, if the company is in administration, with the consent of the administrator.

(2) On an application for leave under paragraphs (b) to (f) of subsection (1), the Court may grant leave subject to such terms and conditions as it considers fit.

(3) During the period beginning with the commencement of the moratorium period and ending with the making of an administration order, subsection (1) does not prevent the appointment of an administrative receiver of the company, or require the leave of the Court for the appointment of an

administrative receiver or limit or affect the carrying out by an administrative receiver of his functions.

(4) Subsection (1) does not prevent, or require the leave of the Court to be obtained for

(a) the enforcement of a charge on assets belonging to a company if, before the commencement of the moratorium period, an interested person lawfully

(i) entered into possession of or assumed control of the assets, or

(ii) entered into a binding agreement to sell the assets,

for the purpose of enforcing the charge on those assets;

(b) the repossession of assets being used or occupied by or in the possession of a company if, before the commencement of the moratorium period, an interested person lawfully entered into possession, or assumed control of those assets; or

(c) the exercise by a creditor of any set-off that he would have been entitled to exercise under section 150 if the company was in liquidation, the liquidation having commenced at the time that the moratorium period commenced.

(5) Notwithstanding subsection (1)(a), the Court may make an order during the moratorium period

(a) appointing a liquidator on the grounds specified in section 162(1)(c); or

(b) appointing a provisional liquidator on an application for the appointment of a liquidator on the grounds specified in section 162(1)(c).

(6) On making an order under subsection (5), the Court shall either

(a) discharge the administration order and make such consequential provision as it considers fit; or

(b) order that the appointment of the administrator shall continue to have effect.

(7) If the Court makes an order under subsection (6)(b), it may also
(a) specify which of the powers of an administrator are to be

exercisable by the administrator;

(b) order that this Part has effect with such modifications as the Court may specify; and

(c) make such consequential provision as it considers fit.

Preservation of charged and other assets.

85. (1) During the period beginning with the commencement of the moratorium period in respect of a company and ending with the making of an administration order against it, the company may not, without the written consent of the interested person concerned, or the leave of the Court granted under section 86, dispose of or otherwise deal with

(a) any assets subject to a charge, other than a floating charge;

(b) any assets subject to a floating charge, otherwise than in the ordinary course of business; or

(c) any assets in the company's use, occupation or possession of which another person is the owner or lessor, including

(i) goods supplied under a hire purchase, conditional sale or chattel leasing agreement, and

(ii) goods supplied subject to a retention of title agreement.

(2) A company that contravenes subsection (1) commits an offence.

Disposal of perishable assets during moratorium period.

86. (1) This section applies during the period beginning with the commencement of the moratorium period and ending with

(a) the making of an administration order; or

(b) the dismissal of the application for an administration order.

(2) Where any assets referred to in section 85(1) are perishable assets, the Court may, on the application of the company, make an order permitting the company to dispose of those assets.

(3) Where the Court makes an order under subsection (2) permitting a company to dispose of assets that are subject to a floating charge, the holder of the security interest has the same priority in respect of any assets of the company directly or indirectly representing the assets disposed of as he would have had in respect of the assets subject to the security interest.

(4) It shall be a condition of an order made under subsection (2) permitting a company to dispose of assets referred to in section 85(1) that are not subject to a floating charge, that

(a) the net proceeds of the disposal; and

(b) if those proceeds are less than such amount as the Court may determine, or as may be agreed, to be the fair market value of the assets disposed of, the sum required to make good the deficiency;

shall be applied towards discharging the sums payable to the interested person concerned.

(5) Where a condition under subsection (4) relates to two or more security interests, the net proceeds of the disposal and any sum required to be paid under subsection (4)(b) shall be applied towards discharging the sums secured by those security interests in the order of their priorities.

(6) Where the Court makes an order under subsection (2) it may make such consequential orders as it considers fit, including

(a) giving directions as to the conduct of the disposal;

(b) making provision for the protection of the proceeds of the disposal.

(7) Where an order is made under subsection (2), the company shall, within 14 days of the date of the order, file with the Registrar a notice in the prescribed form together with a sealed copy of the order.

(8) A company commits an offence if it

(a) contravenes subsection (7), without reasonable excuse; or

(b) fails to comply with a condition imposed under this section.

ADMINISTRATORS

General duties of administrator.

87. (1) An administrator shall, on his appointment, take into his custody or under his control the assets to which the company in administration is or appears to be entitled.

(2) The administrator shall manage the business, assets and affairs of the company

(a) in furtherance of the purposes set out in the administration order;

(b) after the approval of proposals under section 102, in accordance with those proposals; and

(c) in accordance with any directions that may be given by the Court.

(3) Whilst a company is in administration, the directors and other officers of the company remain in office, but they cease to have any powers, functions or duties other than those required or permitted under this Part.

Duty to prepare report.

88. (1) The administrator of a company shall, within sixty days of the commencement of the administration, prepare a report as to whether, in his opinion, further enquiries are desirable with respect to

(a) any matter relating to the promotion, formation or insolvency of the company or the conduct of the business or affairs of the company; and

(b) possible claims under sections 254 to 256.

(2) The administrator shall send a copy of the report prepared under subsection (1)

(a) to each creditor of the company; and

(b) if in his report he states that further enquiries are desirable with respect to a matter referred to in subsection (1), to the Official Receiver.

Duty to report to Commission.

89. (1) Subject to subsection (2), if it appears to the administrator of a company that the company is carrying on or has carried on unlicensed financial services business, he shall as soon as reasonably practicable report the matter to the Commission.

(2) Subsection (1) does not apply where the administration order was made on the application of the Commission.

(3) Where the administrator makes a report to the Commission under subsection (1) he shall, for the purposes of section 105, treat the company as if it was a regulated person.

General powers of administrator.

90. (1) The administrator of a company may

(a) remove any director of the company;

(b) appoint a person to be director of the company, whether to fill a vacancy or not;

(c) call a meeting of the members or the creditors of the company;

(d) require a receiver, other than a qualifying administrative receiver, to vacate office;

(e) do anything necessary for the management of the business, assets and affairs of the company;

(f) apply to the Court for directions in respect of the administration of the company;

(g) use the company's seal; and

(h) do all acts on behalf of the company and execute any deed, receipt or other document in the name of the company.

(2) Without limiting subsection (1), the administrator has the powers specified in Schedule **1**. Schedule 1

(3) The following persons are not concerned to inquire whether the administrator is acting within his powers

(a) a person dealing with the administrator in good faith and for value; and

(b) a person who acquires any interest in assets of the company in administration from a person referred to in paragraph (a) in good faith and for value.

(4) The acts of an administrator of a company are valid notwithstanding any defect in his nomination, appointment or qualifications.

(5) Where a receiver is required to vacate office under subsection (1)(d) the Court may, on the application of the administrator or the receiver, may make such directions as it considers appropriate, including directions as to

(a) the terms upon which assets are to be passed to the administrator;

(b) the payment of the debts of preferential creditors; and

(c) the payment of the remuneration of the receiver.

Power to deal with assets subject to floating charge..

91. (1) The administrator of a company may dispose of any assets of the company that are subject only to a floating charge, whether or not the charge has crystallised.

(2) Where assets are disposed of or otherwise dealt with under subsection (1), the holder of the security interest has the same priority in respect of any assets of the company directly or indirectly representing the assets disposed of as he would have had in respect of the assets subject to the security interest.

Application to Court to deal with other charged assets.

92. (1) The Court may, on the application of the administrator, make an order authorizing the administrator to dispose of

(a) assets of the company that are subject to a security interest that is not a floating charge; and

(b) assets that are being used or occupied by or in the possession of the company but of which some other person is the owner or lessor, including

(i) goods supplied under a hire purchase, conditional sale or chattel leasing agreement, and

(ii) goods supplied subject to a retention of title agreement;

if it considers that the disposal of the assets, with or without other assets, would be likely to promote one or more of the purposes specified in the administration order.

(2) The administrator shall give five business days notice of an application under subsection (1) to

(a) the holder of the charge over; or

(b) the owner or lessor of;

the assets in respect of which the application is made.

(3) It shall be a condition of an order under subsection (1) that

(a) the net proceeds of the disposal; and

(b) if those proceeds are less than such amount as the Court may determine, or as may be agreed, to be the fair market value of the assets disposed of, the sum required to make good the deficiency;

shall be applied towards discharging the sums payable to the interested person concerned.

(4) Where a condition under subsection (3) relates to two or more security interests, the net proceeds of the disposal and any sum required to be paid under subsection (3)(b) shall be applied towards discharging the sums secured by those security interests in the order of their priorities.

(5) Where an order is made under subsection (1), the administrator shall

(a) forthwith serve a sealed copy of the order on the holder of the charge or the owner or lessor of the goods, as the case may be; and

(b) within 14 days of the date of the order, file a notice in the prescribed form with the Registrar.

(6) An administrator commits an offence if he

(a) contravenes subsection (5), without reasonable excuse; or

(b) fails to comply with a condition imposed under this section.

Administrator as agent of company.

93. When performing a function or exercising a power as administrator of a company in administration, the administrator acts as the company's agent.

Removal and resignation of administrator.

94. (1) The Court may, on the application of a creditor of a company in administration or on its own motion, remove an administrator from office.

(2) An administrator

(a) may resign in such circumstances as may be prescribed or with the leave of the Court; and

(b) shall resign if he ceases to be an eligible insolvency practitioner.

(3) An administrator ceases to hold office with effect from the date that an administration order is discharged.

Vacancy in office of administrator of company.

95. (1) Where the administrator of a company in administration

(a) dies;

(b) is removed under section 94(1); or

(c) resigns under section 94(2);

the Court may, on the application of a person specified in subsection (2) or on its own motion, fill the vacancy.

(2) An application under subsection (1) may be made

(a) by any continuing administrator;

(b) by the creditor's committee, if any; or

(c) where there is no administrator or no creditor's committee, by the company in administration, the board of the company or a creditor of the company.

(3) The provisions of this Act and the Rules applicable to giving notice of and advertising an administration order apply to an order of the Court filling a vacancy under subsection (1).

Remuneration of administrator.

96. (1) The administrator of a company is entitled to receive remuneration for his services as administrator.

(2) The remuneration payable to an administrator shall be fixed applying the principles set out in section 432.

Administrator to have charge over assets of company.

97. (1) The administrator has the following charges on the assets of the company in his possession or control:

(a) a first ranking charge for any sums payable in respect of debts or liabilities incurred, whilst he was administrator, under contracts entered into by him or a predecessor of his in the carrying out of the functions of administrator; and

(b) a second ranking charge for his remuneration.

(2) Subject to subsection (3), the charges specified in subsection (1)

(a) rank in priority to any floating charge to which the assets of the company may be subject; and

(b) continue to subsist after the termination of the administration.

(3) Where a debenture or other instrument creates a fixed charge and a floating charge over the assets of a company, subsection (2)(a) does not apply to any assets of the company that are subject to the fixed charge.

(4) A liability arising out of a contract of employment adopted by an administrator, or his predecessor, is a debt or liability for the purposes of subsection (1)(b) if

(a) it is a liability to pay a sum by way of wages or salary or a contribution to an occupational pension scheme; and

(b) it is in respect of services rendered wholly or partly after the adoption of the contract;

but not otherwise.

(5) For the purposes of subsection (4),

(a) wages or salary payable in respect of a period of holiday or absence from work through sickness or other good cause are deemed to be wages or salary in respect of services rendered in that period;

(b) a sum payable in lieu of holiday is deemed to be wages or salary in respect of services rendered in the period by reference to which the holiday entitlement arose; and

(c) that part of the liability representing payment in respect of services rendered before the adoption of the contract of employment shall be disregarded.

Release of administrator.

98. (1) A person who ceases to be the administrator of a company, may apply to the Court for his release and the Court may grant the release unconditionally or upon such conditions as it considers proper, or it may withhold it.

(2) If the Court withholds the release, it may make a compensation order against the former administrator under section 254.

(3) Subject to subsection (5), where a former administrator is released under this section, he is discharged from all liability in respect of any act or default of his in relation to the administration of the company.

(4) An order for the release of a former administrator may be revoked by the Court if the release was obtained by fraud or the suppression or concealment of any material fact.

(5) Subsection (3) does not prevent the Court from making an order under section 254 against an administrator who has been released under this section.

(6) An administrator who obtains his release under this section shall file a notice in the prescribed form with the Registrar.

Statement of affairs.

99. (1) In this section, "relevant person" has the meaning set out in section 275.

(2) The administrator of a company may require one or more relevant persons to prepare and submit to him a statement of affairs.

(3) Subject to section 280, the administrator shall file with the Court each statement of affairs and each affidavit of concurrence that he receives.

ADMINISTRATOR'S PROPOSALS

Administrator's proposals and creditors meeting.

100. (1) Subject to subsection (3), the administrator shall

(a) prepare a report setting out his proposals for the achievement of one or more of the purposes in the administration order;

(b) call a meeting of creditors for a date no later than sixty days after the date of the administration order for the purpose of considering whether to approve his proposals;

(c) send a copy of his report to each creditor together with the notice of the meeting;

(d) send a copy of the notice calling the meeting and his report to each member of the company;

(e) file a copy of the notice calling the meeting together with his report with the Registrar; and

(f) cause the creditors' meeting to be advertised.

(2) The report prepared by the administrator under subsection (1)(a) shall contain the matters prescribed by the Rules.

(3) The administrator is not required to call a meeting of creditors under subsection (1)(b) where

(a) he is of the opinion that the company has sufficient assets to enable each creditor of the company to be paid in full; and

(b) the report prepared under subsection (1)(a) contains a statement that

(i) the administrator is of the opinion that the company has sufficient assets to enable each creditor of the company to be paid in full, and

(ii) the administrator does not intend to call a meeting of creditors under this section.

(4) Notwithstanding subsection (3), if requested to do so by creditors whose debts amount to at least 10 per cent in value of the total debts of the company, the administrator shall call a meeting of creditors to be held no later than 30 days after the date upon which he receives the request.

(5) A request for a meeting under subsection (4) must be delivered to the administrator in the manner and within the period prescribed.

(6) An administrator who contravenes subsection (1) commits an offence.

Attendance at meeting of directors and others.

101. (1) If the administrator considers that it is reasonable to require the presence at a creditors' meeting called under 100 of a person specified in subsection (4), the administrator may, by notice, require the person to attend.

(2) In determining whether it is reasonable to require a person to attend the creditors' meeting, the matters that the administrator shall have regard to include

(a) the likely benefits of the person's attendance;

(b) the travel and associated expenses that will be incurred by him in attending the meeting, unless the administrator is prepared to pay those expenses;

(c) the distance that he would be required to travel to attend the meeting; and

(d) the time that it would take him to travel to and from and attend the meeting.

(3) A notice under subsection (1) requiring a person to attend a creditors' meeting shall be sent to that person at least 14 days prior to the date of the meeting and shall be accompanied by a copy of his report on his proposals.

(4) Subsection (1) applies to any officer of the company and any person who, at any time during the two years prior to the date of the notice, was an officer of the company.

(5) A person commits an offence if

(a) he receives a notice to attend a creditors' meeting under subsection (1); and

(b) without reasonable excuse, he fails to attend the meeting.

Consideration of proposals by creditors.

102. (1) At the creditors' meeting called under section 100, the creditors may resolve to

(a) approve the administrator's proposals, with or without amendment;

(b) reject the proposals; or

(c) adjourn the meeting.

(2) A resolution to approve the administrator's proposals is invalid and of no effect if

(a) the proposals have been amended without the consent in writing of the administrator; or

(b) the proposal has been amended otherwise than in accordance with section 103.

(3) The administrator shall, within 14 days of the conclusion of a meeting called under section 100

(a) report the result of the meeting to the Court and file a copy of that report with the Registrar; and

(b) send a notice setting out the result of the meeting to every creditor.

(4) The report and notice required under subsection (3) shall have annexed to it details of

(a) the proposals considered at the meeting and of any amendments to those proposals that were considered; and

(b) such proposals and amendments as were approved.

(5) If the creditors resolve not to approve the administrator's proposals or fail to pass one of the resolutions specified in subsection (1), the Court may, by order

(a) discharge the administration order and make such consequential provisions as it considers fit;

(b) adjourn the hearing, conditionally or unconditionally; or

(c) make an interim order or any other order that it considers fit.

(6) An administrator who contravenes subsection (3) commits an offence.

Amendment of proposals at creditors' meeting.

103. (1) Where, at a meeting called under section 100, the creditors wish to approve an amended proposal, the meeting shall be adjourned for sufficient time to enable the administrator to give all creditors not present or represented at the meeting at least two business days notice

(a) of the venue of the adjourned meeting; and

(b) of the amended proposal to be considered at the adjourned meeting.

(2) Where a meeting is adjourned under subsection (1), section 102 applies to the adjourned meeting.

(3) Subsection (1) does not apply if

(a) every creditor who was given notice of the meeting under section 100 is present or represented at the meeting; or

(b) the chairman of the meeting certifies in writing that an amendment is to correct minor errors or is otherwise not material.

Modification of proposals.

104. (1) Where proposals have been approved under section 102 and the administrator subsequently considers that they should be substantially modified, he shall

(a) prepare a report setting out his proposed modifications;

(b) call a meeting of creditors for the purpose of considering the report;

(c) send a copy of his report to each creditor together with the notice of the meeting;

(d) send a copy of the notice convening the meeting together with his report to each member of the company;

(e) file a copy of the notice calling the meeting together with his report with the Registrar; and

(f) cause the creditors' meeting to be advertised.

(2) At the creditors' meeting referred to in subsection (1), the creditors may resolve to

(a) approve the administrator's proposed modifications to the proposals, with or without amendment;

(b) reject the proposed modifications; or

(c) adjourn the meeting.

(3) Section 102(2) applies to the creditors' approval of the administrator's proposed modifications to the proposal under this section and if the creditors wish to amend the administrator's proposed modifications, section 103 applies.

(4) The administrator shall, within 14 days of the date of the meeting held under subsection (1)

(a) report the result of the meeting to the Court and file a copy of the report with the Registrar; and

(b) send a notice setting out the result of the meeting to every creditor.

(5) The report and notice required under subsection (4) shall have annexed to it details of

(a) the modifications to the proposal considered at the meeting and of any amendments to those modified proposals that were considered; and

(b) such proposals and amendments as were approved.

(6) An administrator who contravenes subsection (4) commits an offence.

MISCELLANEOUS

Commission's rights where company a regulated person.

105. Where a company in administration is or has been a regulated person,

(a) every notice or other document required to be sent to a creditor of the company under this Part shall also be sent to the Commission;

and

(b) notice shall be given to the Commission of any application to the Court under this Part in respect of the company.

Administrator's duty to keep accounting records.

106. (1) An administrator shall keep accounting records that correctly record and explain the receipts, expenditure and other transactions of the company in administration.

(2) The administrator shall retain the accounting records kept under subsection (1) for a period of not less than six years after the termination of the administration.

(3) An administrator who contravenes this section commits an offence.

Administrator to prepare and send out regular accounts and reports.

107. (1) An administrator shall prepare

(a) accounts of the receipts and payments of the company in administration; and

(b) a report on the progress of the administration;

covering the periods specified in subsection (2).

(2) The accounts and report prepared under subsection (1) shall cover

(a) the period of six months following his appointment;

(b) each subsequent period of six months; and

(c) where he ceases to act as administrator

(i) the period from the end of the period covered by the last accounts required to be prepared under this section, or if he acted as administrator for less than six months from the date of his appointment, to the date of his ceasing to act, and

(ii) the period from the date of his appointment to the date of his ceasing to act, unless prepared in accordance with subparagraph (i).

(3) An administrator shall, within sixty days of the last day of the period covered by the accounts and report

(a) file a copy of the accounts and report with the Court and with the Registrar;

(b) send a copy of the accounts and report to each member of the creditors' committee, if any; and

(c) if the company is or has been a regulated person file a copy of the accounts and report to the Commission.

(4) An administrator who contravenes this section commits an offence.

Notification.

108. (1) Where a company is in administration, every document of a type specified in subsection (2) shall

(a) state that the company is in administration; and

(b) specify the name of the administrator.

(2) Subsection (1) applies to

(a) every public document issued by or on behalf of the company; and

(b) every public document issued by or on behalf of the administrator of the company on which the name of the company appears.

(3) If subsection (1) is contravened the company, and each officer or administrator of the company who causes, permits or acquiesces in the contravention, commits an offence.

Meetings of creditors.

109. (1) The administrator shall call a meeting of creditors if

(a) a meeting is requisitioned by the creditors of the company in accordance with subsection (2); or

(b) he is directed to do so by the Court.

(2) A creditors' meeting may be requisitioned in accordance with the Rules by 10 per cent in value of the creditors of the company.

Discharge or variation of administration order.

110. (1) The administrator of a company may, at any time, apply to the Court for the administration order to be discharged or to be varied to add to or change the purposes specified in the administration order.

(2) An administrator shall make an application under subsection (1) if

(a) he considers that the purposes specified in the order have been achieved or are incapable of achievement; or

(b) he is required to do so by a meeting of creditors.

(3) On the hearing of an application under subsection (1), the Court may discharge or vary the administration order and make such consequential provision as it considers fit, or adjourn the hearing conditionally or unconditionally, or make an interim order or any other order it considers fit, including an order under section 111.

Appointment of liquidator or dissolution of company on discharge of administration order.

111. (1) Where the Court makes an order for the discharge of an administration order made in respect of a company and the Court is satisfied that the company is insolvent

(a) the Court may make an order for the appointment of an eligible insolvency practitioner to be the liquidator of the company; or

(b) if it is satisfied that no useful purpose would be served by the appointment of a liquidator, the Court may dissolve the company.

(2) The Court may appoint the administrator of a company to be the liquidator under subsection (1)(a).

(4) An order under subsection (1)(a) takes effect as an order made under section 162 on the application of the company.

(5) Where an order is made for the appointment of a liquidator under this section, Part **VI** applies to the liquidation of the company.

Filing copy of discharge order with Registrar.

112. (1) Where an administration order is discharged or varied, the administrator or where the order is discharged the person who, immediately before the discharge, was the administrator of the company shall, within 14 days of the date of the order effecting the variation or discharge, file a copy of the order with the Registrar.

(2) A person who contravenes subsection (1) commits an offence.

PROTECTION OF INTERESTS OF CREDITORS AND MEMBERS

Application in respect of moratorium period.

113. (1) During the period beginning with the commencement of the moratorium period and ending with the making of an administration order, the Court may, on an application made by a creditor or member of the company, by a person affected by section 84 or, where the company is or has been a regulated person, by the Commission,

(a) give directions in relation to any matter arising in connection with that section; or

(b) make such other order as it considers fit.

(2) Without limiting subsection (1), an order under that subsection may

(a) regulate the management by the directors of the company's affairs, business and assets during the remainder of the moratorium period;

(b) require the directors to refrain from doing or continuing an act complained of by the applicant, or to do an act that the applicant has complained they have omitted to do;

(c) require the calling of a meeting of creditors or members for the purpose of considering such matters as the Court may direct; and

(d) make such provision as the Court considers necessary to protect the interests of one or more creditors of the company during the moratorium period.

(3) In making an order under this section, the Court shall have regard to the need to safeguard the interests of persons who have dealt with the company in good faith and for value.

Application on grounds of unfair prejudice.

114. (1) At any time when an administration order is in force, an application may be made by a creditor or member of a company or, where the company is or has been a regulated person by the Commission for an order under subsection (2) on one or both of the following grounds:

(a) that the company's affairs, business and assets are being, or have been, managed by the administrator in a manner which unfairly prejudices the interests of the member or creditor; or

(b) that any actual or proposed act or omission of the administrator is or would be so prejudicial.

(2) Subject to subsections (3) and (4), where it is satisfied as to either of the grounds specified in subsection (1), the Court may make such order as it considers fit for giving relief in respect of the matters complained of, or adjourn the hearing conditionally or unconditionally, or make an interim or any other order that it considers fit.

(3) An order under subsection (2) shall not prejudice or prevent

(a) the implementation of proposals approved by the creditors under section 102; or

(b) where the application for the order was made more than 28 days after the approval of any proposals or revised proposals under section 102 or 104, the implementation of those proposals or revised proposals.

(4) Without limiting subsection (2), an order under that subsection may

(a) regulate the management by the administrator of the company's affairs, business and assets;

(b) require the administrator to refrain from doing or continuing an act complained of by the applicant, or to do an act that the applicant has complained he has omitted to do;

(c) require the calling of a meeting of creditors or members for the purpose of considering such matters as the Court may direct; and

(d) discharge the administration order and make such consequential provision as the Court considers fit.

(5) Section 91 is not to be taken as prejudicing an application to the Court under this section.

PART IV

RECEIVERSHIP

PRELIMINARY

Interpretation for and scope of this Part.

115. (1) In this Part, unless the context otherwise requires, "company" means the company in respect of whose assets a receiver is or may be appointed.

(2) This Part applies to a receiver appointed

(a) by the Court;

(b) under a debenture or other instrument; or

(c) under or in accordance with any other enactment.

(3) Unless this Act expressly states otherwise, where, in respect of a receiver appointed by the Court (other than as an administrative receiver), there is a conflict between this Act and the provisions of any other enactment or rule of law or the Civil Procedure Rules, the provisions of the enactment or rule of law or the Civil Procedure Rules, as the case may be, shall prevail.

(4) Where an administrative receiver is appointed in respect of a company, that company is referred to in this Act as "in administrative receivership".

GENERAL

Persons not to be appointed or act as receiver.

116. (1) Subject to subsection (2), the following persons are not eligible to be appointed as receiver in respect of a company and shall not accept appointment or act as such a receiver

(a) a mortgagee of any assets of the company;

(b) a person who is, or within the previous 2 years has been,

(i) an officer or employee of a mortgagee of any assets of the company, or

(ii) a shareholder in or member of the company or a related company;

(c) a person who, pursuant to section 477 is disqualified from holding a licence;

(d) a person who, in an insolvency proceeding, would not be eligible to act as an insolvency practitioner in respect of the company pursuant to section 482(2);

(e) a body corporate; and

(f) such other persons as may be prescribed.

(2) The Court may appoint

(a) the Official Receiver; or

(b) a person who is not eligible under subsection (1);

as a receiver, other than an administrative receiver.

(3) A person who accepts or purports to accept appointment or acts or purports to act as a receiver contrary to subsection (1) commits an offence.

Appointment of joint receivers.

117. (1) A power conferred by a debenture or other instrument to appoint a receiver includes the power to appoint

(a) two or more joint receivers;

(b) an additional receiver to act jointly with the receiver in office; and

(c) a receiver to succeed a receiver who has vacated office;

unless the debenture or other instrument expressly provides otherwise.

(2) Joint receivers may act jointly or severally unless the instrument under which, or the Court order by which, they are appointed expressly provides otherwise.

(3) Unless the context otherwise requires, in this Act and the Rules, "receiver" and "administrative receiver" includes two or more persons appointed as joint receivers or joint administrative receivers, as the case may be.

Notice of appointment.

118. (1) A receiver shall forthwith upon being appointed

(a) send a notice of his appointment to the company; and

(b) file a notice of his appointment

(i) with the Registrar, and

(ii) if the company is or has been a regulated person, with the Commission.

(2) In addition to complying with subsection (1), an administrative receiver shall

(a) subject to subsection (3), within five business days after being appointed, cause a notice of his appointment to be advertised; and

(b) within 28 days after being appointed, send a notice of his appointment to all creditors of the company in receivership.

(3) Subsection (2)(a) does not apply to a receiver appointed

(a) to act jointly with an existing administrative receiver; or

(b) to act in place of an administrative receiver who has died or ceased to act.

(4) A receiver who contravenes subsection (1) and an administrative receiver who contravenes subsection (2) commits an offence.

Notification of receivership.

119. (1) Where a company is in receivership, every document to which subsection (2) applies shall contain a statement that a receiver has been appointed.

(2) Subsection (1) applies to

(a) every public document issued by or on behalf of the company; and

(b) every public document issued by or on behalf of the receiver or any liquidator of the company on which the name of the company appears.

(3) A failure to comply with subsection (1) does not affect the validity of the document.

(4) A person who contravenes subsection (1), or who causes, permits or acquiesces in a contravention of subsection (1), commits an offence.

Vacation of office.

120. (1) The office of receiver becomes vacant if the person holding the office

(a) dies;

(b) resigns;

(c) vacates his office in accordance with subsection (2); or

(d) is removed from office in accordance with section 123.

(2) A receiver appointed out of court shall vacate his office forthwith if he ceases to be eligible to act as a receiver in accordance with section 116(1).

(3) Where a receiver vacates office in accordance with subsection (2), he shall, as soon as practicable, give notice to

(a) the person who appointed him;

(b) the company, or

(i) if the company is in liquidation, its liquidator, and

(ii) if the company is in administration, its administrator; and

(c) the members of the creditors' committee, if any.

(4) A receiver appointed by the Court shall as soon as practicable notify the Court if he ceases to be eligible to act as a receiver in accordance with section 116(1).

(5) Where a vacancy in the office of receiver occurs as a result of the resignation or removal of the person holding office as receiver or as a result of the person holding office vacating office under subsection (4), that person shall, within seven days of his ceasing to hold office, give notice in the prescribed form to the Registrar.

(6) Where a receiver vacates office, unless the Court otherwise orders

(a) his remuneration; and

(b) any indemnity to which he is entitled out of the assets of the company;

shall be charged on and paid out of any assets of the company that are in his custody or under his control at that time in priority to any security interest held by the person by or on whose behalf he was appointed.

(7) A person who contravenes subsections (2), (3), (4) or (5) commits an offence.

Assistance to be provided by receiver vacating office.

121. (1) A person vacating the office of receiver shall provide such information and give such assistance in the conduct of the receivership as is reasonably required by any remaining joint receiver or his successor.

(2) If a person vacating the office of receiver fails to provide information or give assistance as required under subsection (1) the Court may, on the application of the remaining joint receiver or successor, order the person vacating office to provide such information and give such assistance as is reasonably required within such time as is specified in the order.

(3) A person who fails to comply with an order made under subsection (2) commits an offence.

Resignation of receiver.

122. (1) The resignation of an administrative receiver appointed out of court is not effective unless he has given not less than seven days notice of his intention to resign to

(a) the person who appointed him;

(b) the company in receivership, or if it is in liquidation, its liquidator; and

(c) the members of the creditors' committee, if any.

(2) Unless the Court otherwise orders, the resignation of a receiver appointed by the Court is not effective unless he has given at least seven days notice of his intention to resign to the Court and to such other persons as may be specified by the Court.

(3) A notice given under subsection (1) shall state the date upon which the receiver intends his resignation to take effect.

Removal of receiver.

123. (1) A receiver appointed out of court, other than an administrative receiver, may be removed

(a) in accordance with the charge or other instrument under which he was appointed; or

(b) by order of the Court.

(2) A receiver appointed by the Court and an administrative receiver may be removed by order of the Court, but not otherwise.

(3) Application to the Court for the removal of a receiver under subsection (1) or subsection (2) may be made by

(a) the company, or

(i) if the company is in liquidation, its liquidator, and

(ii) in the case of a receiver who is not an administrative receiver, if the company is in administration, its administrator;

(b) the board of the company;

(c) the person by or on whose behalf the receiver was appointed;

(d) a creditor of the company; or

(e) any other person who the Court is satisfied has a legitimate interest in the removal of the receiver.

(4) An application to the Court for the removal of a receiver under this section shall specify the grounds upon which the removal of the receiver is being sought and shall be served on the receiver at least five business days prior to the date fixed for the hearing of the application.

Co-operation with receiver.

124. (1) Where a receiver is appointed, the company and every officer of the company shall

(a) make available to the receiver all books, documents and information relating to the assets in respect of which the receiver has been appointed in its or his possession or under its or his control;

(b) if required to do so by the receiver, verify by statutory declaration that the books, documents and information are complete and correct; and

(c) give the receiver such assistance as he may reasonably require.

(2) On the application of the receiver, the Court may make an order requiring the company or an officer of the company to comply with subsection (1).

(3) A person who fails to comply with an order of the Court made under subsection (2) commits an offence.

Duty to report to Commission.

125. If it appears to a receiver that the company in respect of which he was appointed is carrying on or has carried on unlicensed financial services business, he shall as soon as reasonably practicable report the matter to the Commission.

Agency.

126. (1) A receiver appointed out of court, other than an administrative receiver, is deemed to be the agent of the company unless the charge or instrument under which he was appointed expressly provides otherwise.

(2) Subject to subsection (3), an administrative receiver is deemed to be the agent of the company in receivership.

(3) If a liquidator is appointed in respect of a company in receivership, the agency of any receiver, including an administrative receiver, terminates with immediate effect.

Powers of receiver, other than administrative receiver.

127. (1) A receiver has the powers expressly or impliedly conferred on him,

(a) in the case of a receiver appointed out of court, by the charge or other instrument by which he was appointed; or

(b) in the case of a receiver appointed by the Court, by the Court order under which he was appointed.

(2) Unless the charge or other instrument under which, or Court order by which, he was appointed expressly provides otherwise, a receiver may

(a) demand and recover, by action or otherwise, income of the assets in respect of which he was appointed;

(b) issue receipts for income recovered;

(c) manage, insure, repair and maintain the assets in respect of which he was appointed; and

(d) exercise, on behalf of the company, a right to inspect books or documents that relate to the assets in respect of which he was appointed in the possession or under the control of a person other than the company.

(3) This section does not apply to an administrative receiver.

General duties of receivers.

128. (1) The primary duty of a receiver is to exercise his powers

(a) in good faith and for a proper purpose; and

(b) in a manner he believes, on reasonable grounds, to be in the best interests of the person in whose interests he was appointed.

(2) To the extent consistent with subsection (1), a receiver shall exercise his powers with reasonable regard to the interests of

(a) creditors of the company;

(b) sureties who may be called upon to fulfil obligations of the company;

(c) persons claiming, through the company, an interest in assets in respect of which he was appointed; and

(d) the company.

(3) Where a receiver appointed out of court acts or refrains from acting in accordance with any directions given by the person in whose interests he was appointed, the receiver is not in breach of the duty specified in subsection (1)(b), but is nevertheless liable for any breach of the duties specified in subsection (1)(a) and subsection (2).

Powers of sale and proceeds of sale.

129. (1) A receiver who exercises a power of sale of assets in respect of which he was appointed owes a duty to

(a) creditors of the company;

(b) sureties who may be called upon to fulfil obligations of the company;

(c) persons claiming, through the company, an interest in assets in respect of which he was appointed; and

(d) the company;

to obtain the best price reasonably obtainable at the time of sale.

(2) A receiver shall keep money relating to the assets in respect of which he was appointed separate from other money received in the course of, but not relating to, those assets and from other money held by him or under his control.

(3) Notwithstanding any other enactment or rule of law to the contrary or anything contained in the debenture or other instrument by which a receiver was appointed,

(a) it is not a defence in proceedings against a receiver for a breach of the duty imposed by subsection (1) that the receiver was acting as the agent of the company or under a power of attorney from the company; and

(b) a receiver is not entitled to compensation or an indemnity from the assets in respect of which he was appointed or the company in respect of any liability incurred by the receiver arising from a breach of the duty imposed by subsection (1).

Liabilities of receivers.

130. (1) Subject to subsections (2) and (3), a receiver is personally liable

(a) on any contract entered into by him in the performance of his functions; and

(b) for the payment of wages or salary, including amounts due for holidays or absence due to sickness, or contributions to an occupational pension scheme that, during the period of the receivership, accrue under a contract of employment adopted by him in the performance of those functions.

(2) A receiver appointed out of court is not personally liable on a contract referred to in subsection (1)(a) to the extent that the contract excludes or limits his liability.

(3) Where a receiver is appointed by the Court, other than as an administrative receiver, unless the Court orders otherwise, all contracts of employment are terminated with immediate effect and subsection (1)(b) does not apply.

(4) For the purposes of subsection (1)(b), a receiver is deemed to have adopted a contract of employment if notice of the termination of the contract is not given within 14 days after the date of his appointment.

(5) A receiver is entitled to an indemnity in respect of his liability under subsection (1) out of the assets in respect of which he was appointed.

(6) Nothing in this section

(a) imposes any liability on a receiver for wages or salary, including amounts due for holidays or absence due to sickness, or contributions to an occupational pension scheme, in respect of services rendered prior to the commencement of the receivership;

(b) limits any right to indemnity that the receiver would have apart from this section;

(c) limits the liability of a receiver on a contract entered into without authority; or

(d) confers on a receiver a right to an indemnity in respect of his liability on a contract entered into without authority.

Payment of debts out of assets subject to a floating charge.

131. (1) This section applies where a receiver is appointed on behalf of the holder of a floating charge.

(2) If the company is not in liquidation, its preferential creditors shall be paid out of the assets coming into the hands of the receiver in priority to any claims for principal or interest in respect of

(a) the debenture or other instrument under which the receiver is appointed; and

(b) any other debenture or other instrument of the company secured by a floating charge.

(3) Payments made under this section shall be recouped, as far as possible, out of the assets of the company available for payment of unsecured creditors.

Court directions.

132. (1) On the application of a person referred to in subsection (2), the Court may, in relation to any matter arising in connection with the performance of the functions of a receiver, make one or more of the following orders:

(a) an order giving such directions as it considers appropriate;

(b) an order declaring the rights of persons before it; and

(c) such other order as it considers just.

(2) Application to the Court for an order under subsection (1) may be made by any of the following persons:

(a) the receiver;

(b) the person by whom or on whose behalf the receiver was appointed;

(c) a person in whose interest the receiver is acting; and

(d) where the company in receivership is or has been a regulated person, the Commission.

Further provisions with respect to an order under section 132.

133. The power of the Court to make an order under section 132

(a) is in addition to any other powers that may be exercised by the Court whether under this Act or any other enactment or in its inherent jurisdiction;

(b) may be exercised notwithstanding that the receiver may have died or ceased to act as receiver before the making of the application or the order; and

(c) notwithstanding anything in the Civil Procedure Rules to the contrary, includes the power to vary or amend an order that the Court has already made.

Remuneration of receivers.

134. (1) Subject to subsection (3), a receiver appointed under a debenture or other instrument is entitled to be paid remuneration for his services

(a) in accordance with the terms of that debenture or other instrument; or

(b) as agreed with the person on whose behalf he was appointed.

(2) A receiver appointed by the Court or in accordance with any other enactment is entitled to be paid such remuneration as the Court may order.

(3) On the application of a person referred to in subsection (6), the Court may review and fix the amount paid or to be paid by way of remuneration to a receiver in accordance with subsection (1).

(4) Subject to subsection (5), the Court's power under subsection (3)

(a) extends to fixing the remuneration for any period before the making of the order or the application for it;

(b) is exercisable notwithstanding that the receiver has died or ceased to act before the making of the application or the order; and

(c) extends to requiring him or his personal representative to account for the excess or such part of it as may be specified in the order to the extent that an amount paid to or retained by a receiver as remuneration exceeds that fixed by the Court for the period concerned.

(5) The power conferred by subsection (4)(c) may not be exercised with respect to a period before the date of the application for an order under this section unless the Court is satisfied that there are special circumstances that justify it.

(6) An application to the Court for an order under subsection (3) may be made by any of the following persons:

(a) the receiver;

(b) the company or

(i) if the company is in liquidation, its liquidator, and

(ii) if the company is in administration, its administrator;

(c) a person claiming through the company an interest in the assets in respect of which the receiver was appointed; and

(d) if the company in receivership is or has been a regulated person, the Commission.

(7) In fixing the remuneration of a receiver under this section, the Court shall apply the general principles specified in section 432.

Accounting records.

135. (1) A receiver shall keep accounting records that correctly record and explain the receipts, expenditure and other transactions relating to the assets in respect of which he has been appointed.

(2) The accounting records kept under subsection (1) shall be retained for a period of not less than six years after the receivership ends.

Receivership accounts to be filed with Registrar.

136. (1) A receiver shall prepare accounts of his receipts and payments covering the periods specified in subsection (2).

(2) Accounts prepared under subsection (1) shall cover the following periods:

(a) the period of 12 months following the receiver's appointment;

(b) each subsequent period of six months;

(c) where the receiver ceases to act as receiver,

(i) the period from the end of the period covered by the last accounts required to be filed under this section, or if he acted as receiver for less than 12 months from the date of his appointment, to the date of his ceasing to act, and

(ii) the period from the date of his appointment to the date of his ceasing to act, unless filed in accordance with subparagraph (i).

(3) The accounts prepared under subsection (1) shall

(a) comprise an abstract showing all receipts and payments during the period covered by the accounts; and

(b) within 30 days of the last day of the period covered by the accounts

(i) be filed with the Registrar, and

(ii) if the company in receivership is or has been a regulated person, with the Commission.

(4) A receiver appointed by the Court shall, in addition to complying with subsection (3), file at Court accounts in such form, covering such periods and within such time as the Court may order.

(5) In respect of a receiver appointed by the Court,

(a) the obligations imposed by this section are additional

(i) to any obligations or requirements concerning receivership accounts contained in Rules of Court, and

(ii) to any order made with respect to receivership accounts by the Court; and

(b) the Court may set aside the application of subsections (1), (2) and (3) to such extent and on such terms and conditions as it considers fit.

(6) The Registrar may, on the application of a receiver, extend the period for the filing of accounts under this section for a period of, or where he grants more than one extension, for an aggregate period not exceeding three months.

(7) A receiver who contravenes this section commits an offence.

(8) Nothing in this section affects or limits the duty of a receiver to prepare and render proper accounts imposed otherwise than by this section.

Enforcement of duty to make returns.

137. (1) If a receiver

(a) having made default in filing, delivering or making any return, account or other document, or in giving any notice, which a receiver is required to file deliver, make or give under this Act or any other enactment fails to make good the default within 14 days after the service on him of a notice requiring him to do so; or

(b) being a receiver appointed out of court, has, after being required at any time by the liquidator of the company to do so, failed to render proper accounts of his receipts and payments and to vouch them and pay over to the liquidator the amount properly payable to him;

the Court may, on an application being made to it, order the receiver to make good the default within such time as may be specified in the order or, in respect of a default referred to in subsection (1)(a), may relieve the receiver of the obligation, in whole or in part.

(2) An application to the Court may be made

(a) in respect of a default referred to in subsection (1)(a), by the Registrar, a member or creditor of the company, its board or, if appropriate, its liquidator or administrator or the Commission; and

(b) in respect of a default referred to in subsection (1)(b), by the liquidator of the company.

(3) The Court may order that the receiver pay the costs of and incidental to an application under subsection (1).

(4) This section does not affect the operation of this Act or any other enactment that may impose penalties on receivers in respect of a default of the type referred to in subsection (1).

(5) A receiver who fails to comply with an order made under this section commits an offence.

Completion of receivership.

138. On the completion of his receivership, a receiver shall forthwith

(a) give notice to

(i) the company, or if it is in administration or liquidation, the administrator or liquidator,

(ii) in the case of an administrative receiver, the creditors' committee, if any, and

(iii) if the company is or has been a regulated person, to the Commission; and

(b) file a notice of completion with the Registrar and, if the company is or has been a regulated person, with the Commission.

RECEIVERS APPOINTED OUT OF COURT

Appointment of receiver out of court.

139. (1) The appointment of a receiver out of court shall be made in writing.

(2) Subject to subsection (3), the appointment of a receiver out of court takes effect from the time upon which the receiver receives the written notice of appointment.

(3) The appointment of a receiver out of court is not effective unless the receiver accepts it before the end of the next business day following the day on which he receives the written appointment.

(4) Where two or more joint receivers are appointed out of court

(a) the joint appointment takes effect from the time that all joint receivers receive the written appointment; and

(b) the joint appointment is not effective unless each receiver accepts the appointment in accordance with subsection (3).

(5) Where a receiver is appointed out of court, whether as a sole or joint receiver, he shall, if he accepts the appointment, within seven days confirm his acceptance in writing to the person who appointed him.

(6) Subsection (5) does not apply where an appointment is accepted in writing.

(7) For the purposes of this section,

(a) a person receives a written appointment if the appointment is received on his behalf; and

(b) an acceptance or confirmation of acceptance of an appointment as a receiver under this section may be given by any person authorized for that purpose by the appointee.

(8) A written acceptance or confirmation of acceptance of an appointment of a receiver out of court shall state

(a) the time and date of receipt of the notice of appointment; and

(b) the time and date of the acceptance.

Execution of documents.

140. Where a receiver appointed out of court, other than an administrative receiver, is authorized to execute documents in the name of or on behalf of a company, whether under a power of attorney or otherwise, that authority continues in respect of documents necessary or incidental to the receiver's powers notwithstanding that the company may go into liquidation.

Invalid appointment.

141. (1) Where the appointment of a person as a receiver appointed out of court is invalid the Court may, if it satisfied that the receiver acted honestly and reasonably, order the person by whom or on whose behalf the receiver was appointed to indemnify the receiver against any liability which arises solely by reason of the invalidity of the appointment.

(2) The Court may exercise its powers under subsection (1) subject to such terms and conditions as it considers fit.

ADMINISTRATIVE RECEIVERS

Meaning of "administrative receiver".

142. (1) In this Act, "administrative receiver" means a receiver of the whole, or substantially the whole, of the business, undertaking and assets of a company

(a) appointed out of court by or on behalf of the holder of a debenture or other instrument of the company secured by a floating charge, whether or not that debenture or other instrument is also secured by one or more other security interests; or

(b) appointed by the Court as an administrative receiver under section 143.

(2) Where two or more persons have the right, under different instruments, to appoint an administrative receiver,

(a) each may appoint an administrative receiver, but only one administrative receiver may act in relation to the company at any time; and

(b) the administrative receiver appointed on behalf of the person whose security interest ranks highest in priority, is entitled to act as administrative receiver.

Appointment of administrative receiver by Court.

143. (1) Where the Court appoints a receiver who would, had he been appointed out of Court, be an administrative receiver, the Court may, in the order under which the receiver is appointed, specify that the receiver is an administrative receiver.

(2) Where the Court appoints a receiver as an administrative receiver under subsection (1), unless and to the extent that the Court otherwise orders or that this Act provides to the contrary, the provisions of this Act that apply to administrative receivers apply to that receiver.

(3) The Court shall not appoint a receiver as an administrative receiver if there is an administrative receiver acting in relation to the company.

Powers of administrative receiver.

144. (1) Notwithstanding any provision in the memorandum or articles, an administrative receiver may, unless the debenture or other instrument by which he was appointed provides otherwise,

(a) execute all documents necessary or incidental to the exercise of his powers in the name of and on behalf of the company in receivership; and

(b) use the company's seal.

(2) Unless and to the extent that the debenture or other instrument by which an administrative receiver is appointed provides otherwise, the powers conferred on an administrative receiver of a company by the debenture or other instrument by
which he was appointed include the powers specified in Schedule **1**.

Schedule 1

(3) References in Schedule **1** to the assets of the company are to that part of the assets of the company in respect of which the receiver is appointed.

(4) A person dealing with the administrative receiver of a company in good faith and for value is not concerned to enquire whether he is acting within his powers.

Power to dispose of charged assets.

145. (1) In this section, "relevant assets", in relation to the administrative receiver, means the assets of which he is or, but for the appointment of some other person as the receiver of part of the company's assets, would be the receiver.

(2) Where on an application by an administrative receiver, the Court is satisfied that the disposal, with or without other assets, of any relevant assets which are subject to a security interest would be likely to promote a more advantageous realisation of the company's assets than would otherwise be effected, the Court may by order authorize the administrative receiver to dispose of the assets as if they were not subject to the other security interest.

(3) Subsection (2) does not apply in the case of any security interest held by the person by or on whose behalf the administrative receiver was appointed, or of any security interest to which a security interest so held has priority.

(4) It shall be a condition of an order made under subsection (2) that

(a) the net proceeds of the disposal; and

(b) where those proceeds are less than such amount as may be determined by the Court to be the net amount which would be realised on the sale of the assets in the open market by a willing vendor (the open market value), such sums as may be required to make good the deficiency;

shall be applied towards the sums secured by the security interest.

(5) Where a condition imposed pursuant to subsection (4) relates to two or more security interests, that condition shall require the net proceeds of the disposal and, where paragraph (b) of that subsection applies, the sums mentioned in that paragraph to be applied towards discharging the sums secured by those security interests in the order of their priorities.

(6) Where, following the disposal of assets under this section, subsection (4)(b) applies, the administrative receiver, or any person to whom sums are to be paid under that subsection, may apply to the Court for a review of the Court's determination as to the open market value of the assets.

(7) On an application made under subsection (6), the Court may make a fresh determination as to the open market value of the assets disposed of and subsections (4) and (5) shall apply with the new open market value substituted for the original open market value.

(8) An application under subsection (6) shall be made

(a) in the case of the administrative receiver, within 14 days of the date of the disposal of the assets; or

(b) in the case of a person other than the administrative receiver, within 14 days of the date that he is notified by the administrative receiver of the sale.

(9) The administrative receiver shall file a copy of an order made under subsection (2) or subsection (7) with the Registrar within 14 days of the date of the order.

(10) An administrative receiver who contravenes subsection (9) commits an offence.

Statement of affairs.

146. (1) In this section, "relevant person" has the meaning set out in section 275.

(2) An administrative receiver shall, as soon as practicable after his appointment, by notice, require one or more relevant persons to prepare and submit to him a statement of affairs of the company in administrative receivership.

Report by administrative receiver.

147. (1) An administrative receiver shall, within three months of his appointment, prepare and file with the Registrar a report as to

(a) the events leading up to his appointment;

(b) the disposal or proposed disposal by him of any assets of the company and the carrying on by him of any business of the company;

(c) the amounts of principal and interest payable to the person by whom or on whose behalf he was appointed and the amounts payable to preferential creditors;

(d) the amount, if any, likely to be available for the payment of other creditors; and

(e) the persons who have submitted statements of affairs under section 146.

(2) A report prepared under subsection (1) shall include summaries of the statements of affairs submitted to him together with his comments thereon.

(3) The administrative receiver shall, within 14 days of filing the report prepared under subsection (1) with the Registrar,

(a) send a copy of the report to

(i) the company in receivership or, if it is in liquidation, its liquidator,

(ii) every creditor of the company, in so far as he is aware of their addresses, and

(iii) where the company is or has been a regulated person, to the Commission;

(b) publish a notice in the prescribed form stating the address of an office to which creditors of the company may write for a copy of the report and at which the report can be inspected during normal office hours; and

(c) call a meeting of unsecured creditors.

(4) Where he is satisfied that the disclosure of information in a report prepared under this section would seriously prejudice the carrying out by him of is functions, the administrative receiver may omit such information from his report.

(5) Where a liquidator is appointed after the administrative receiver has sent a copy of his report to the company under subsection (3)(a), he shall within seven days of the date of appointment of the liquidator send a copy of his report to the liquidator.

(6) This section does not apply to a receiver appointed

(a) to act jointly with an existing administrative receiver; or

(b) to act in place of an administrative receiver who has died or ceased to act;

where subsections (1), (3) and (5) have been complied with by the existing administrative receiver or by his predecessor.

(7) An administrative receiver who fails to comply with this section commits an offence.

Application for permission not to call meeting of creditors.

148. (1) An administrative receiver may apply to the Court for an order permitting him not to call a meeting of creditors under section 147(3)(c) and, subject to subsection (2), the Court may make such an order subject to such terms as it considers appropriate.

(2) The Court shall not make an order under subsection (1) unless

(a) the administrative receiver has stated in his report prepared under 147(1) his intention of applying for the order; and

(b) the report has been sent to the persons referred to in section 147(3)(a) not less than 14 days prior to the date of the hearing of the application.

PART V

PROVISIONS APPLICABLE TO THE LIQUIDATION OF COMPANIES

AND TO THE BANKRUPTCY OF INDIVIDUALS

Interpretation.

149. For the purposes of this Part,

(a) "debtor" means a company in liquidation or an individual in bankruptcy;

(b) "insolvency proceeding" means in the case of a company, its liquidation and in the case of an individual, his bankruptcy; and

(c) "relevant time" means, in the case of a company, the commencement of its liquidation and, in the case of an individual, the commencement of his bankruptcy.

Insolvency set-off.

150. (1) Subject to section 434, where, before the relevant time, there have been mutual credits, mutual debts or other mutual dealings between a debtor and a creditor claiming or intending to claim in the insolvency proceeding,

(a) an account shall be taken of what is due from each party to the other in respect of those mutual credits, mutual debts or other mutual dealings, as at the relevant time;

(b) the sum due from one party shall be set-off against the sums due from the other party; and

(c) only the balance of the account, if any, may be claimed in the insolvency proceeding or is payable to the debtor, as the case may be.

(2) A creditor is not entitled to claim the benefit of a set-off under this section if he had actual notice that the debtor was insolvent

(a) at the time he gave credit to the debtor or received credit from the debtor; or

(b) at the time he acquired any claim against the debtor or any part of or interest in such a claim.

(3) For the purposes of subsection (2), "insolvent" has the meaning specified in section 8 with the deletion of subsection (1)(c)(i) of that section.

(4) Where, before the relevant time, a creditor waives or agrees that he will not claim the benefit of a set-off under this section, that waiver or agreement takes effect notwithstanding subsection (1), except to the extent that a creditor who was not a party to the agreement, or has not agreed otherwise, is prejudiced.

Validity of agreements to subordinate debt.

151. Where, before the relevant time, a creditor acknowledges or agrees that, in the event of a shortfall of assets, he will accept a lower priority in respect of a debt than that which he would otherwise have under this Act, that acknowledgement or agreement takes effect notwithstanding the provisions of this Act, except to the extent that a creditor of the debtor who was not a party to the agreement is prejudiced.

Quantification of claims in liquidation and bankruptcy.

152. (1) This section applies to the quantification of a claim in the liquidation of a company or the bankruptcy of an individual.

(2) The amount of a claim shall be quantified as at the relevant time.

(3) Where a claim is subject to a contingency or, for any other reason, the amount of the claim is not certain, the liquidator, or the bankruptcy trustee, shall

(a) agree an estimate of the value of the claim as at the relevant time; or

(b) apply to the Court to determine the amount of the claim.

(4) On an application by the liquidator or the bankruptcy trustee under subsection (3)(b), the Court may

(a) determine the amount of the claim itself; or

(b) determine a method to be used by the liquidator or the trustee for calculating the amount of the claim.

(5) In the case of rent and other payments of a periodic nature, a claim may include any amounts due and unpaid at the relevant time and where, at the relevant time, a payment was accruing due, the claim may include so much as would have fallen due at that time if the liability had been accruing from day to day.

(6) A claim based on a liability that, at the relevant time, was not payable by the company until after the relevant time shall be discounted in accordance with the Rules.

(7) Interest may be included in a claim as provided by section 153.

Interest on claims.

153. (1) Subject to sections 215 and 342, a claim in the liquidation of a company or the bankruptcy of an individual shall not include an amount for interest in respect of a period after the relevant time.

(2) If it was agreed between the debtor and a creditor that the debt on which the creditor's claim is based would bear interest, the claim may include interest, at the agreed rate, up to the relevant time.

(3) A claim made by a creditor other than one referred to in subsection (2) may include interest up to the relevant time if

(a) the debt on which the claim is based is due by virtue of a written instrument and was payable at a certain time before the relevant time; or

(b) if, before the relevant time, the creditor made written demand on the debtor and the demand stipulated that interest would be payable on the debt from the date of the demand until payment of the debt.

(4) The amount of interest that may be included in a claim under this section is,

(a) in the case of a debt referred to in subsection (3)(a), interest at the court rate for the period from the date that the debt was payable to the relevant time; and

(b) in the case of a debt referred to in subsection (3)(b), interest at the court rate for the period from the date of the written demand to the relevant time.

Claim in currency other than dollars.

154. (1) The amount of a claim based on a liability incurred or payable in a currency other than dollars shall be converted into dollars at the rate of exchange prevailing at the relevant time.

(2) For the purposes of subsection (1), the rate of exchange should be ascertained in such manner as may be prescribed.

Statutory demand.

155. (1) A creditor may make demand on a person for payment of a debt owed by that person to him.

(2) A demand under subsection (1) shall

(a) be in respect of a debt that is due and payable at the time of the demand and that is not less than the prescribed minimum;

(b) be in writing and shall specify the nature of the debt and its amount;

(c) be dated and shall be signed by the creditor or by a person authorized to make demand on the creditor's behalf;

(d) require the person to pay the debt or to secure or compound for the debt to the reasonable satisfaction of the creditor within 21 days of the date of service of the demand on him;

(e) state that if the demand is not complied with, application may be made to the Court for the appointment of a liquidator or a trustee, as the case may be;

(f) set out the rights of the person to make application to set the demand aside under section 156; and

(g) comply with and be served in accordance with the Rules.

(3) If the creditor making demand under subsection (1) is a secured creditor in respect of the debt, the full amount of the debt shall be specified in the demand, but

(a) the demand shall specify the nature of the security interest, and the value which the creditor places on it at the date of the demand; and

(b) the amount claimed

(i) shall be the full amount of the debt less the amount specified as the value of the security interest; and

(ii) shall equal or exceed the prescribed minimum.

Application to set aside statutory demand.

156. (1) Where a person has been served with a statutory demand he may apply to the Court to set it aside.

(2) An application under subsection (1) shall be made within seven days of the date of service of the demand on him.

(3) The Court may not extend the time for making or serving an application to set aside a statutory demand.

(4) Subject to an order of the Court under section 157, the time for compliance with the demand ceases to run as from the date upon which an application under subsection (1) is filed with the Court.

(5) A person applying to set aside a statutory demand under this section shall give seven days notice of the hearing to the creditor or, where a person is named in the demand as the person with whom communications in respect of the demand should be made, to that person.

Hearing to set aside statutory demand.

157. (1) The Court shall set aside a statutory demand if it is satisfied that

(a) there is a substantial dispute as to whether

(i) the debt, or

(ii) a part of the debt sufficient to reduce the undisputed debt to less than the prescribed minimum,

is owing or due;

(b) the person on whom the statutory demand was served has a reasonable prospect of establishing a set-off, counterclaim or cross claim in an amount equal to or greater than the amount specified in the demand less the prescribed minimum; or

(c) the creditor holds a security interest in respect of the debt claimed and the value of the security interest is equal to or greater than the amount specified in the demand less the prescribed minimum.

(2) The Court may set aside a statutory demand if it is satisfied that substantial injustice would otherwise be caused

(a) because of a defect in the demand, including a failure to comply with section 155(3); or

(b) for some other reason.

(3) Where the Court is satisfied that the security interest of a secured creditor has been under-valued in the statutory demand, the Court may require the creditor to amend the demand accordingly, but without prejudice to his right to make application for the appointment of a liquidator or a bankruptcy order, as the case may be.

(4) If, on hearing an application to set aside a statutory demand, the Court is satisfied that there are no grounds for setting aside the statutory demand, it may extend the time for compliance with the statutory demand.

(5) If the Court dismisses an application to set aside a statutory demand, it shall make an order authorizing the creditor to make application for the appointment of a liquidator or a bankruptcy order, as the case may be.

(6) Having considered the evidence before it on a hearing under this section, the Court may either summarily determine the application or adjourn it giving such directions as it considers fit.

PART VI

LIQUIDATION

PRELIMINARY

Application of this Part to Official Receiver.

158. Where the Official Receiver is appointed as the liquidator or provisional liquidator of a company, the provisions of this Act that apply to a liquidator apply to the Official Receiver, as liquidator, unless otherwise provided.

Appointment of liquidator.

159. (1) The Court may appoint the Official Receiver or an eligible insolvency practitioner as liquidator

(a) of a company, on an application under section 162; or

(b) of a foreign company, on an application under section 163.

(2) Subject to section 161, the members of a company may, by a qualifying resolution, appoint an eligible insolvency practitioner as liquidator of the company.

(3) For the purposes of subsection (2), a resolution is a "qualifying resolution" if it is passed at a properly constituted meeting of the company by a majority of 75 per cent, or if a higher majority is required by the memorandum or articles, by that higher majority, of the votes of those members who are present at the meeting and entitled to vote on the resolution.

(4) The members of a foreign company may not appoint a liquidator under this Part and any resolution of the members of a foreign company that purports to appoint a liquidator under this Part is void and of no effect.

Duration of liquidation.

160. The liquidation of a company commences at the time at which a liquidator is appointed as provided in section 159 and continues until it is terminated in accordance with section 232 and, throughout this period, the company is referred to in this Act as "in liquidation".

Appointment of liquidator by members.

161. (1) The members of a company may not appoint a liquidator of the company if

(a) an application to the Court to appoint a liquidator has been filed but not yet determined;

(b) a liquidator has been appointed by the Court; or

(c) the person to be appointed liquidator has not consented in writing to his appointment;

and a resolution to appoint a liquidator in the circumstances referred to in paragraphs (a), (b) or (c) is void and of no effect.

(2) Where the members resolve to appoint a liquidator under section 159(2), the company shall, as soon as practicable, give the liquidator notice of his appointment.

(3) The members of a company may not appoint the Official Receiver as liquidator of the company, and any resolution of the members that purports to do so is void and of no effect.

(4) A company that contravenes subsection (2) commits an offence.

APPOINTMENT OF LIQUIDATOR BY COURT

Appointment of liquidator by Court.

162. (1) The Court may, on application by a person specified in subsection (2), appoint a liquidator of a company under section 159(1) if

(a) the company is insolvent;

(b) the Court is of the opinion that it is just and equitable that a liquidator should be appointed; or

(c) the Court is of the opinion that it is in the public interest for a liquidator to be appointed.

(2) Subject to subsections (3), (4) and (5), an application under subsection (1) may be made by one or more of the following:

(a) the company;

(b) a creditor;

(c) a member;

(d) the supervisor of a creditors' arrangement in respect of the company;

(e) the Commission; and

(f) the Attorney General.

(3) An application under subsection (1)(a) by a member may only be made with the leave of the Court, which shall not be granted unless the Court is satisfied that there is a *prima facie* case that the company is insolvent.

(4) An application to appoint a liquidator under subsection (1)(c) may only be made by the Commission or the Attorney General.

(5) The Commission may only make an application to appoint a liquidator under subsection (1)(c) if the company concerned is, or at any time has been, a regulated person.

(6) Where a creditor's arrangement has terminated, the person who, immediately before the termination of the arrangement, was the supervisor is treated as the supervisor for the purposes of this section.

(7) An applicant may, in his application under this section, propose an eligible insolvency practitioner as liquidator of the company.

(8) Where an order is made under section 159(1) at a time when an arrangement is in force in respect of the company, the Court may appoint the supervisor of the arrangement as liquidator of the company.

Appointment of liquidator of a foreign company.

163. (1) The Court may, on application by a person specified in section 162(2), appoint a liquidator of a foreign company under section 159(1) if the Court is satisfied that the company has a connection with the Virgin Islands and

(a) the company is insolvent;

(b) the Court is of the opinion that it is just and equitable that a liquidator should be appointed;

(c) the Court is of the opinion that it is in the public interest for a liquidator to be appointed;

(d) the company is dissolved or has otherwise ceased to exist under or by virtue of the laws of the country in which it was last registered;

(e) the company has ceased to carry on business; or

(f) the company is carrying on business only for the purpose of winding up its affairs.

(2) For the purposes of subsection (1), a foreign company has a connection with the Virgin Islands only if

(a) it has or appears to have assets in the Virgin Islands;

(b) it is carrying on, or has carried on, business in the Virgin Islands; or

(c) there is a reasonable prospect that the appointment of a liquidator of the company under this Part will benefit the creditors of the company.

(3) An application for the appointment of a liquidator of a foreign company may be made

(a) notwithstanding that the company has been dissolved or has otherwise ceased to exist under or by virtue of the laws of any other country; and

(b) whether or not the company is or has been registered under Part IX of the Companies Act. Cap. 285

(4) Subject to the modifications and exceptions set out in Schedule **3**, the provisions of this Part apply to an application to appoint a liquidator of a foreign company and to the liquidation of a foreign company. Schedule 3

Withdrawal of application.

164. An application for the appointment of a liquidator may not be withdrawn except with the leave of the Court.

Advertisement of application.

165. (1) Unless the Court otherwise orders, an application for the appointment of a liquidator shall be advertised,

(a) if the company is the applicant, not less than seven days before the date set for the application to be heard; or

(b) if the company is not the applicant, not less than seven days after service of the application on the company and not less than seven days before the date set for the application to be heard.

(2) If the application is not advertised in accordance with this section and the Rules, the Court may dismiss it.

Substitution of applicant.

166. (1) In the circumstances specified in subsection (2), the Court may, by order, substitute as applicant in an application for the appointment of a liquidator, a creditor or member who is entitled to make such an application.

(2) The Court may make a substitution order under subsection (1) where the original applicant is a member or creditor of the company and the Court considers it appropriate to do so

(a) because the applicant applies to withdraw the application or consents to it being dismissed;

(b) because the Court considers that the application is not being diligently proceeded with;

(c) where the applicant is not entitled to make the application; or

(d) for any other reason.

Court's powers on hearing of an application.

167. (1) On the hearing of an application for the appointment of a liquidator, the Court may

(a) appoint a liquidator under section 159(1);

(b) dismiss the application, even if a ground on which the Court could appoint a liquidator has been proved;

(c) adjourn the hearing conditionally or unconditionally; or

(d) make any interim order or other order that it considers fit.

(2) The Court shall not refuse to appoint a liquidator of a company merely because

(a) the assets of the company are subject to a security interest in respect of an amount equal to or greater than the value or amount of the assets;

(b) the company has no assets; or

(c) where the applicant is a member, if the order were made, no assets of the company would be available for distribution among the members.

(3) Where an application to appoint a liquidator is made by a member under section 162(1)(b), if the Court is of the opinion that

(a) the applicant is entitled to relief either by the appointment of a liquidator or by some other means; and

(b) in the absence of any other remedy it would be just and equitable to appoint a liquidator;

it shall appoint a liquidator unless it is also of the opinion that some other remedy is available to the applicant and that he is acting unreasonably in seeking to have a liquidator appointed instead of pursuing that other remedy.

Period within which application shall be determined.

168. (1) Subject to subsection (2), an application for the appointment of a liquidator shall be determined within six months after it is filed.

(2) The Court may, upon such conditions as it considers fit, extend the period referred to in subsection (1) for one or more periods not exceeding three months each if

(a) it is satisfied that special circumstances justify the extension; and

(b) the order extending the period is made before the expiry of that period or, if a previous order has been made under this subsection, that period as extended.

(3) If an application is not determined within the period referred to in subsection (1) or within that period as extended, it is deemed to have been dismissed.

Expenses of an arrangement.

169. Where a liquidator of a company is appointed and, at the date that the application was filed, an arrangement was being supervised by a supervisor, the remuneration of the supervisor is a first charge on the assets of the company.

INTERIM RELIEF

Appointment of provisional liquidator.

170. (1) Where an application for the appointment of a liquidator of a company has been filed but not yet determined or withdrawn, the Court may, on application by a person specified in subsection (2), appoint the Official Receiver or an eligible insolvency practitioner as provisional liquidator of the company on the grounds specified in subsection (4).

(2) Subject to subsection (3), an application under subsection (1) may be made by one or more of the following:

(a) the applicant for the appointment of a liquidator;

(b) the company;

(c) a creditor;

(d) a member;

(e) the Commission; and

(f) any person who, under any other enactment, is entitled to apply for the appointment of a liquidator of the company.

(3) An application under subsection (1) by a member may only be made with the leave of the Court.

(4) The Court may appoint a provisional liquidator under subsection (1) if

(a) the company, in respect of which the application to appoint a liquidator has been made, consents; or

(b) the Court is satisfied that the appointment of a provisional liquidator

(i) is necessary for the purpose of maintaining the value of assets owned or managed by the company, or

(ii) is in the public interest.

(5) The Court may appoint a provisional liquidator on such terms as it considers fit and may, as a condition precedent to the appointment, require the applicant to deposit at Court such sum as the Court considers reasonable to cover the remuneration of the provisional liquidator.

Rights and powers of provisional liquidator.

171. (1) Subject to subsection (2), a provisional liquidator has the rights and powers of a liquidator to the extent necessary to maintain the value of the assets owned or managed by the company or to carry out the functions for which he was appointed.

(2) The Court may limit the powers of a provisional liquidator in such manner and at such times as it considers fit.

Remuneration of provisional liquidator.

172. (1) The provisional liquidator of a company is entitled to be paid such remuneration as the Court may order applying the general principles specified in section 432.

(2) Subject to subsections (4) and (5), the remuneration of the provisional liquidator is payable out of the assets of the company.

(3) Where a liquidator is appointed, the remuneration of the provisional liquidator shall be paid in accordance with the prescribed priority.

(4) If a liquidator is not appointed, the Court may order the applicant for the appointment of the provisional liquidator to pay or contribute to the remuneration and expenses of the provisional liquidator if it is satisfied that the applicant

(a) misled the Court when making the application; or

(b) acted unreasonably in applying for the appointment of the provisional liquidator.

(5) If the assets of the company are not sufficient to pay the remuneration of the provisional liquidator, the Court may order the shortfall, or part of the shortfall, to be paid by the applicant for the appointment of the provisional liquidator.

(6) Unless the Court otherwise orders, where subsection (4)(a) applies, the provisional liquidator may retain out of the company's assets such sums or assets as are, or may be, required for meeting his remuneration.

Termination of appointment of provisional liquidator.

173. (1) The Court may, on the application of the provisional liquidator or of any person specified in section 170(2) or on its own motion, terminate the appointment of a provisional liquidator.

(2) If the Court has not previously terminated the appointment of a provisional liquidator under subsection (1), it terminates on the determination by the Court of the application to appoint a liquidator.

(3) On the termination of the appointment of a provisional liquidator, the Court may give such directions or make such order with respect to the accounts of his administration, or to any other matters, as it considers appropriate.

Power to stay or restrain proceedings etc.

174. (1) Where an application for the appointment of a liquidator of a company has been filed but not yet determined or withdrawn, a person specified in section 170(2) may,

(a) where any action or proceeding is pending against the company in the Court, the Court of Appeal or the Privy Council, apply to the Court, the Court of Appeal or the Privy Council, as the case may be, for a stay of the action or proceeding; and

(b) where any action or proceeding is pending against the company in any other Virgin Islands court or tribunal in the Virgin Islands, apply to the Court for a stay of the action or proceeding.

EFFECT OF LIQUIDATION

Effect of liquidation.

175. (1) Subject to subsection (2), with effect from the commencement of the liquidation of a company

(a) the liquidator has custody and control of the assets of the company;

(b) the directors and other officers of the company remain in office, but they cease to have any powers, functions or duties other than those required or permitted under this Part;

(c) unless the Court otherwise orders, no person may

(i) commence or proceed with any action or proceeding against the company or in relation to its assets, or

(ii) exercise or enforce, or continue to exercise or enforce any right or remedy over or against assets of the company;

(d) unless the Court otherwise orders, no share in the company may be transferred;

(e) no alteration may be made in the status of or to the rights or liabilities of a member, whether by an amendment of the memorandum or articles or otherwise;

(f) no member may exercise any power under the memorandum or articles, or otherwise, except for the purposes of this Act; and

(g) no amendment may be made to the memorandum or articles of the company.

(2) Subsection (1) does not affect the right of a secured creditor to take possession of and realise or otherwise deal with assets of the company over which that creditor has a security interest.

(3) Any thing or matter done or purported to be done in contravention of subsection (1) is void and of no effect.

Restriction on execution or attachment.

176. (1) Subject to subsections (2) and (3), a creditor is not entitled to retain the benefit of any execution process, distress or attachment over or against the assets of a company in liquidation unless the execution, process or attachment is completed before the first occurring of the commencement of the liquidation and,

(a) where the liquidator was appointed by the members under section 159(2), the date upon which the creditor had notice of the calling of the meeting at which the resolution was proposed; or

(b) where the liquidator was appointed by Court, the date upon which the application to appoint the liquidator was filed.

(2) A person who, in good faith and for value, purchases assets of a company from an officer charged with an execution process acquires a good title as against the liquidator of the company.

(3) The Court may set aside the rights conferred on a liquidator under subsection (1) to the extent and subject to such terms as it considers fit.

(4) For the purposes of this section,

(a) an execution or distraint against personal property is completed by seizure and sale;

(b) an attachment of a debt is completed by the receipt of the debt; and

(c) an execution against land is completed by sale, and in the case of an equitable interest, by the appointment of a receiver.

Duties of officer in execution process.

177. (1) Subject to subsection (6), where

(a) assets of a company are taken in an execution process; and

(b) before completion of the execution process the officer charged with the execution process receives notice that a liquidator or a provisional liquidator of a company has been appointed;

he shall, on being required by the liquidator or provisional liquidator to do so, deliver or transfer the assets and any money received in satisfaction or partial satisfaction of the execution or paid to avoid a sale of the assets, to the liquidator.

(2) The costs of the execution process are a first charge on any asset delivered or transferred to the liquidator under subsection (1) and the liquidator may sell all or some of the assets to satisfy that charge.

(3) Subject to subsections (4) and (6), if in an execution process in respect of a judgement for a sum exceeding $500, assets of a company are sold or money

is paid to avoid a sale, the officer charged with the execution process shall retain the proceeds of sale or the money paid for a period of 14 days.

(4) If

(a) within the period of 14 days referred to in subsection (3), the officer has notice that

(i) an application for the appointment of a liquidator of the company has been filed, or

(ii) a meeting of the members of the company has been called at which a resolution to appoint a liquidator is to be proposed; and

(b) a liquidator is appointed in respect of the company;

the officer shall deduct the costs of execution from the amount that he has retained under subsection (3) and pay the balance to the liquidator.

(5) A liquidator to whom money has been paid under subsection (4) is entitled to retain it as against the execution creditor.

(6) The Court may set aside the rights conferred on a liquidator under this section to the extent and subject to such terms as it considers fit.

NOTICE OF APPOINTMENT AND FIRST MEETINGS OF CREDITORS

Notice of appointment of liquidator.

178. (1) The liquidator of a company shall, within 14 days of the date of his appointment

(a) advertise his appointment in

(i) the *Gazette*,

(ii) a newspaper published and circulating in the Virgin Islands, and

(iii) a newspaper published and circulating in the place of the company's principal place of business;

(b) file notice of his appointment with the Registrar;

(c) serve notice of his appointment on the company in respect of which he was appointed; and

(d) if he has been appointed in respect of a company that is or has been a regulated person, serve notice of his appointment on the Commission.

(2) A liquidator who contravenes subsection (1) commits an offence.

Liquidator to call first meeting of creditors.

179. (1) Subject to section 183, the liquidator of a company shall call a meeting of the creditors of the company (the first creditors' meeting) to be held within 14 days of the date of his appointment

(a) by sending a notice of the meeting to every creditor not less than seven days before the date upon which the meeting is to be held; and

(b) by advertising the meeting.

(2) During the period before the date of the first creditors' meeting, the liquidator shall, at the request of a creditor, furnish that creditor with

(a) a list of the creditors of the company known to the liquidator; and

(b) such other information concerning the affairs of the company as the creditor may reasonably require and that the liquidator is reasonably able to provide.

(3) The liquidator shall attend the first creditors meeting and, if appointed by the members, shall report to the meeting on any exercise by him of his powers since his appointment.

(4) At the first creditors' meeting, the creditors may,

(a) in the case of a liquidator appointed by the members, appoint another liquidator in his place; or

(b) in the case of a liquidator appointed by the Court, resolve to make application to the Court for the appointment of another liquidator in his place; and

(c) in either case, appoint a creditors' committee.

(5) A liquidator who contravenes subsections (1), (2) or (3) commits an offence.

Application to Court by members.

180. Where at a meeting held under section 179 the creditors appoint a liquidator in the place of the liquidator appointed by the members, a director, member or creditor of the company may apply to the Court for an order that

(a) the person appointed by the members is appointed liquidator; or

(b) some other insolvency practitioner is appointed as liquidator;

in either case, instead of or jointly with the liquidator appointed by the creditors.

Application of sections 178 and 179.

181. (1) Subject to subsection (2), sections 178 and 179 do not apply to a liquidator appointed to act

(a) with an existing liquidator; or

(b) in place of a liquidator who has died or otherwise ceased to act.

(2) Where the first liquidator of a company dies or ceases to act before sections 178 and 179 have been fully complied with, those sections apply to his successor and any continuing liquidator until the sections have been fully complied with.

Restrictions on powers of liquidator appointed by members.

182. Notwithstanding section 186, in the case of a liquidator appointed by the members of a company, during the period before the holding of the first creditors' meeting called under section 179, the powers of the liquidator are limited to

(a) taking into his custody and control all the assets to which the company is or appears to be entitled;

(b) disposing of perishable goods and other assets the value of which is likely to diminish if they are not immediately disposed of;

(c) doing all such things as may be necessary to protect the company's assets; and

(d) exercising such other of the powers conferred on a liquidator by section 186 as the Court may, on his application, sanction.

Court appointed liquidator may dispense with creditors' meeting.

183. A liquidator appointed by the Court is not required to call a meeting of creditors under section 179 if

(a) he considers that, having regard to the assets and liabilities of the company, the likely result of the liquidation of the company and any other relevant matters that it is not necessary for a meeting to be held;

(b) he gives notice to the creditors stating

(i) that he does not consider it necessary for a meeting to be held,

(ii) the reasons for his view, and

(iii) that a meeting will not be called unless 10 per cent in value of the creditors give written notice to the liquidator within ten days of receiving the notice, that they require a meeting to be called; and

(c) no notice requiring a meeting to be held is received by him.

LIQUIDATORS

Status of liquidator.

184. (1) In performing his functions and undertaking his duties under this Act, a liquidator, whether appointed by resolution of the members or by the Court, acts as an officer of the Court.

(2) A liquidator is the agent of the company in liquidation.

General duties of liquidator.

185. (1) The principal duties of a liquidator of a company are

(a) to take possession of, protect and realise the assets of the company;

(b) to distribute the assets or the proceeds of realisation of the assets in accordance with this Act; and

(c) if there are surplus assets remaining, to distribute them, or the proceeds of realisation of the surplus assets, in accordance with this Act;

(2) The liquidator shall, subject to this Act and the Rules, use his own discretion in undertaking his duties.

(3) A liquidator also has the other duties imposed by this Act and the Rules and such duties as may be imposed by the Court.

General powers of liquidator.

186. (1) A liquidator of a company has the powers necessary to carry out the functions and duties of a liquidator under this Act and the powers conferred on him by this Act.

(2) Without limiting subsection (1), a liquidator has the powers specified in Schedule **2**.

Schedule 2

(3) The Court may provide that certain powers may only be exercised with the sanction of the Court

(a) where the liquidator is appointed by the Court, on his appointment or subsequently; or

(b) where the liquidator is appointed by the members, at any time.

(4) Where a liquidator disposes of any assets of the company to a person connected with the company, he shall notify the creditors' committee, if any, of such disposition.

(5) The liquidator of a company, whether or not appointed by the Court, may at any time apply to the Court for directions in relation to a particular matter arising in the liquidation.

Removal of liquidator.

187. (1) The Court may, on application by a person specified in subsection (2) or on its own motion, remove the liquidator of a company from office if

(a) the liquidator

(i) is not eligible to act as an insolvency practitioner in relation to the company,

(ii) breaches any duty or obligation imposed on him by or owed by him under this Act, the Rules or any other enactment or law in the Virgin Islands, or

(iii) fails to comply with any direction or order of the Court made in relation to the liquidation of the company; or

(b) the Court is satisfied that

(i) the liquidator's conduct of the liquidation is below the standard that may be expected of a reasonably competent liquidator,

(ii) the liquidator has an interest that conflicts with his role as liquidator, or

(iii) that for some other reason he should be removed as liquidator.

(2) An application to the Court to remove the liquidator of a company may be made by

(a) the creditors' committee;

(b) a creditor or member of the company; or

(c) the Official Receiver.

(3) Where the Court removes a liquidator from office under this section

(a) if, following his removal, there is at least one liquidator remaining in office, the Court may appoint another liquidator in his place; or

(b) if the liquidator removed was the sole liquidator of the company, the Court shall appoint another liquidator in his place.

(4) On the hearing of an application under this section, the Court may make any interim or other order it considers fit.

Resignation of liquidator.

188. (1) A liquidator of a company

(a) shall resign if he is no longer eligible to act as an insolvency practitioner in relation to the company; but

(b) otherwise may only resign in accordance with this section.

(2) Where a liquidator resigns under subsection (1)(a), he shall send a notice of his resignation to the creditors of the company and to the Official Receiver and, if he was appointed by the Court, to the Court.

(3) A liquidator may resign in accordance with subsection (5)

(a) if he intends to cease to be in practice as an insolvency practitioner;

(b) if there is some conflict of interest or change of personal circumstances that precludes or makes impracticable the further discharge by him of his duties; or

(c) on the grounds of ill health.

(4) Notwithstanding subsection (3), where joint liquidators are appointed in respect of a company, one or more of the joint liquidators may resign in accordance with subsection (5) if

(a) all the joint liquidators are of the opinion that it is no longer necessary or expedient for the resigning liquidator or liquidators to continue in office; and

(b) at least one of them will remain in office.

(5) Where the liquidator of a company intends to resign on one of the grounds referred to in subsection (3) or under subsection (4), he shall call a meeting of creditors for the purpose of accepting his resignation as liquidator.

(6) If, at the meeting called under subsection (5), the creditors resolve to accept the resignation of the liquidator, he ceases to hold office as liquidator with effect from the date of the meeting.

(7) This section does not apply to the Official Receiver when acting as the liquidator of a company.

Vacancy in office of liquidator.

189. (1) Where the liquidator of a company

(a) dies;

(b) is removed under section 187; or

(c) resigns under section 188;

the Court may, on the application of a person specified in subsection (2) or on its own motion, fill the vacancy.

(2) An application under subsection (1) may be made

(a) by any continuing liquidator;

(b) by the creditors' committee, if any; or

(c) by the Official Receiver.

Remuneration of liquidator.

190. The remuneration payable to the liquidator of a company shall be fixed applying the principles set out in section 432.

Notification of liquidation.

191. (1) Where a company is in liquidation, every document of a type specified in subsection (2) shall

(a) state that the company is in liquidation; and

(b) specify the name of the liquidator.

(2) Subsection (1) applies to

(a) every public document issued by or on behalf of the company;

(b) every public document issued by or on behalf of the liquidator of the company or a receiver of the assets of that company on which, in either case, the name of the company appears.

(3) If subsection (1) is contravened the company, and each officer, receiver or liquidator of the company who causes, permits or acquiesces in the contravention, commits an offence.

Vesting of assets in liquidator.

192. (1) On the application of the liquidator of a company, the Court may order that all or any part of the assets of the company, or held by trustees on its behalf, shall vest in the liquidator from the date of the order.

(2) On the making of an order under subsection (1), the assets covered by the order vest in the liquidator by his official name.

(3) The liquidator of a company may, after giving such indemnity, if any, as the Court may direct, bring or defend in his official name any action or other legal proceeding which relates to the vested assets or which it is necessary to bring or defend for the purposes of liquidating the company and recovering its assets.

MEMBERS

Settlement of list of members.

193. (1) The liquidator of a company shall, as soon as practicable after his appointment, settle a list of the members of the company containing the information and in the form prescribed.

(2) Forthwith after settling the list of members, the liquidator shall give notice to every person included in the list that he has done so in accordance with the Rules.

(3) If a person objects to any entry in, or exclusion from, the list of members as settled by the liquidator which is not accepted by the liquidator, he may apply to the Court for an order removing the entry to which he objects or, as the case may be, modifying the entry.

(4) An application under subsection (3) shall be made within 21 days of the service on the applicant of the liquidator's notice declining to accept the objection.

(5) The liquidator of a company is not personally liable for the costs incurred by a person in an application under subsection (3) unless the Court makes an order to that effect.

(6) The liquidator may from time to time vary or add to the list of members as previously settled by him and any variation or addition is subject, as regards any person affected, to the provisions of the Act and the Rules applicable to the settling of the list.

Rectification of register of members.

194. (1) If it appears to the liquidator of a company that the register of members of the company should be rectified, he may apply to the Court for an order under this section.

(2) On an application under subsection (1), the Court may rectify the register of members of the company.

Liability of members limited.

195. (1) Unless the memorandum of a company provides that the liability of a member is unlimited, the liability of a member to contribute to the assets of a company in liquidation for the payment of its liabilities, for the expenses of the liquidation and for the adjustment of the rights of the members between themselves is limited to

(a) any amount unpaid on a share held by the member, including any liability for calls; and

(b) any liability expressly provided for in the memorandum or articles, including such contribution as the member of a company limited by guarantee, or by shares and guarantee, may have undertaken to make in the event of the company being wound up.

(2) Subsection (1) does not affect

(a) any liability of the member to pay or repay monies to the company imposed by a provision of this Act, the Companies Act or the International Business Companies Act; or

(b) any liability of a member to the company under a contract, including a contract for the issue of shares, or for any tort, breach of fiduciary duty or other actionable wrong committed by the member.

Liability of past members.

196. (1) For the purposes of this section, a "past member" of a company is a person who ceased to be a member of the company at any time during the period of one year before the commencement of the liquidation of the company.

(2) Unless the Court is satisfied that the members of a company are able to discharge the liabilities set out in 195(1), a past member of a company in liquidation is liable to contribute to the assets of the company for the purposes specified in that subsection to the same extent as a member.

(3) Notwithstanding subsection (2), a past member is not liable to contribute to the assets of the company in respect of any liability of the company contracted after he ceased to be a member.

Dividends payable to member.

197. A member, and a past member, of a company may not claim in the liquidation of the company for a sum due to him in his character as a member, whether by way of dividend, profits, redemption proceeds or otherwise, but such sum is to be taken into account for the purposes of the final adjustment of the rights of members and, if appropriate, past members between themselves.

Liability where limited company becomes unlimited company.

198. (1) This section applies where an unlimited company in liquidation was at some former time registered as a limited company.

(2) A person who ceased to be a member of a company before the company became registered as an unlimited company, and has not since become a member of the company, is liable to contribute to the assets of the company only to the extent that he would have been liable had the company remained registered as a limited company.

Liability where unlimited company becomes limited company.

199. (1) This section applies where a limited company in liquidation was at some former time registered as an unlimited company.

(2) Notwithstanding section 196, if a company referred to in subsection (1) goes into liquidation within the period of one year from the date on which it was registered as a limited company, a person who was a member of the company at the date of its registration as a limited company is liable, without limit, to contribute to the assets of the company in respect of liabilities contracted before that time.

Liability of personal representative.

200. The personal representatives of a member or past member who has died are liable to contribute out of his estate to the assets of the company under sections 195, 196, 198 and 199 to the same extent as the member.

Effect of member or past member becoming bankrupt.

201. The liquidator of a company is entitled to submit a claim in the bankruptcy or liquidation of any member or past member of the company in respect of any contribution that the member or past member is required to make under sections 195, 196, 198 and 199.

Status of personal representatives or trustee in bankruptcy.

202. The personal representatives and the trustee in bankruptcy of a member or past member of a company in liquidation are entitled to make any application to Court, or take any such other action, as could be made or taken by the member or past member.

Insurance and other contracts not affected.

203. Nothing in this Act invalidates any provision contained in a policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted or whereby the funds of the company are alone made liable in respect of the policy or contract.

Power of liquidator to enforce liability of member or past member.

204. (1) The liquidator of a company may,

(a) if a member is liable to calls, make calls on that member; and

(b) if a member or past member is liable to the company, as a member, require him, by notice in writing, to discharge that liability.

(2) A call made under subsection (1)(a) shall be in writing and shall specify the amount of, or balance due in respect of, the call.

(3) The liability of a member under subsection (1) includes a liability of the estate of the person he represents.

(4) In the case of an unlimited company, a member may set-off against a liability under subsection (1)(b) any money due to him, or to the estate which he represents, from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit.

(5) The liquidator may enforce the liability of a member under subsection (1) only if that member is on the list of members settled by him under section 193.

Summary remedy against members and past members.

205. (1) The liquidator may apply to the Court for an order under this section if

(a) a member of a company fails to comply with a call made under section 204(1)(a); or

(b) a member or past member fails to satisfy a liability when required to do so under 204(1)(b).

(2) On an application under subsection (1), the Court may order a member or past member to pay to the company any money due from him, or due from the estate of the person who he represents in accordance with section 204(1).

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, together with interest at the official rate, any money due on any account whatever to a member from the company may be allowed to him by way of set-off against any subsequent call.

Order under section 205 to be conclusive evidence.

206. An order made against a member under section 205 is, subject to any right of appeal, conclusive evidence that the money, if any, ordered to be paid is due.

CLAIMS

Distribution of assets of company.

207. (1) Unless and to the extent that this Act or any other enactment provides otherwise, the assets of a company in liquidation shall be applied

(a) in paying, in priority to all other claims, the costs and expenses properly incurred in the liquidation in accordance with the prescribed priority;

(b) after payment of the costs and expenses of the liquidation, in paying the preferential claims admitted by the liquidator in accordance with the provisions for the payment of preferential claims prescribed;

(c) after payment of the preferential claims, in paying all other claims admitted by the liquidator; and

(d) after paying all admitted claims, in paying any interest payable under section 215.

(2) Subject to section 151, the claims referred to in subsection (1)(c) rank equally between themselves if the assets of the company are insufficient to meet the claims in full, they shall be paid rateably.

(3) Any surplus assets remaining after payment of the costs, expenses and claims referred to in subsection (1) shall be distributed to the members in accordance with their rights and interests in the company.

(4) For the purposes of this Act, assets held by a company in liquidation on trust for another person are not assets of the company.

Claims having priority over floating charges.

208. (1) So far as the assets of a company in liquidation available for payment of the claims of unsecured creditors are insufficient to pay

(a) the costs and expenses of the liquidation in accordance with the prescribed priority; and

(b) the preferential creditors;

those costs, expenses and claims have priority over the claims of chargees in respect of assets that are subject to a floating charge created by the company and shall be paid accordingly out of those assets.

Claims by unsecured creditors.

209. (1) An unsecured creditor may make a claim against a company in liquidation by submitting to the liquidator a written claim, signed by him or on his behalf.

(2) The liquidator may require an unsecured creditor who intends to submit, or who has submitted, a claim under subsection (1)

(a) to verify his claim by affidavit;

(b) to provide further particulars of his claim; or

(c) to provide him with documentary or other evidence to substantiate the claim.

(3) As soon as reasonably practicable after receiving a claim under subsection (1) from a creditor who has complied with any requirements that the liquidator may have imposed under subsection (2), the liquidator shall either admit or reject the claim in whole or in part.

(4) If the liquidator rejects the claim, whether in whole or in part, he shall as soon as practicable provide the creditor with a notice of rejection in which the reasons for the rejection of the claim shall be specified.

(5) Unless the Court otherwise orders, a creditor shall bear the costs of making a claim under this section, including the costs of complying with any requirements imposed by the liquidator under subsection (2).

(6) The liquidator shall not admit a claim against the company unless it has been made in accordance with this section.

(7) A person who makes or authorizes the making of a claim under this section knowing that

(a) the claim is false or misleading in a material matter; or

(b) a material fact or matter has been omitted from the claim;

commits an offence.

Variation , withdrawal and expunging of claims.

210. (1) A claim made under section 209 may

(a) be amended or withdrawn by the creditor at any time before the liquidator has admitted it; and

(b) be amended or withdrawn by agreement between the creditor and the liquidator at any time after the liquidator has admitted it

(2) The Court, on the application of the liquidator or, where the liquidator declines to make application under this subsection, a creditor, may expunge or amend an admitted claim if it is satisfied that the claim should not have been admitted or should be reduced.

Claims by secured creditors.

211. (1) A secured creditor may

(a) value the assets subject to the security interest and claim in the liquidation of a company as an unsecured creditor for the balance of his debt; or

(b) surrender his security interest to the liquidator for the general benefit of creditors and claim in the liquidation as an unsecured creditor for the whole of his debt;

but he is not obliged to do either.

(2) A secured creditor may, at any time apply to the liquidator to amend the value that he placed on the security interest in his claim.

(3) If, on receiving an application under subsection (2), the liquidator is satisfied that

(a) the value placed on the security interest was an estimate made in good faith on a mistaken basis; or

(b) the value of the security interest has subsequently changed;

he may permit the secured creditor to amend the value that he places on the security interest.

(4) If the liquidator of a company is dissatisfied with the value placed on a security interest by a secured creditor, whether under subsection (1)(a) or on an

amendment under subsection (3), he may require the assets comprised in the security interest to be offered for sale.

(5) A sale under subsection (4) is to be on such terms and conditions as are agreed by the secured creditor and the liquidator or, in default, as the Court determines.

(6) If assets are offered for sale by public auction, both the secured creditor and the liquidator are entitled to bid for and purchase them.

Redemption of security interest by liquidator.

212. (1) Where a secured creditor has claimed in the liquidation of a company under section 211(1)(a), the liquidator may at any time give notice to the creditor that he proposes at the expiration of 28 days from the date of the notice to redeem the security interest at the value placed on it by the creditor.

(2) A secured creditor who receives a notice under subsection (1) may, within 21 days of the date of the notice, apply to the liquidator to revise the value that he places on the security interest in accordance with section 211(2).

(3) At the expiration of 28 days from the date of the notice under subsection (1), the liquidator may redeem the security interest at the value placed on it by the creditor unless

(a) the secured creditor has applied to the liquidator to amend the value that he places on the security interest and that application has not been determined; or

(b) the secured creditor has appealed to the Court against the refusal of the liquidator to permit him to amend the value that he places on his security interest, and that appeal has not been determined.

(4) Where, subsequent to a notice to redeem issued under subsection (1), the value placed by the secured creditor on his security interest is amended, whether with the consent of the liquidator or on appeal to the Court, the liquidator may only redeem the security interest at the new value.

(5) A secured creditor may, by serving a notice to elect on the liquidator, require him to elect whether or not to exercise his power to redeem under this section.

(6) Where a notice to elect is served on a liquidator under subsection (5), he is not entitled to redeem the security interest unless he does so within six months of the date of service of the notice on him or within such extended period as the Court may allow.

Realization of security interest by secured creditor.

213. (1) Where a secured creditor realises his security interest and there is a surplus remaining from the net amount realised after satisfaction of the debt secured, he shall account to the liquidator for the surplus, after making any proper payments to the holder of any other security interest over the assets subject to that charge.

(2) Where a secured creditor realises his security interest and the net amount realised is not sufficient to satisfy the liability secured

(a) if the creditor has previously valued his security interest and claimed in the liquidation for the balance under section 211(1)(a), the net amount realised is substituted for the value previously placed by the creditor on the security interest; or

(b) in any other case, the creditor may claim in the liquidation as an unsecured creditor for the balance of the secured liability.

(3) For the purposes of this section, the secured liability includes contractual interest payable to the secured creditor on the liability up to the time of its satisfaction.

Surrender for non-disclosure.

214. (1) Subject to subsection (2), if a secured creditor omits to disclose his security interest when submitting a claim in the liquidation of a company, he shall surrender his security interest for the general benefit of the creditors.

(2) The Court may, on application by a secured creditor who is required to surrender his security interest under subsection (1), if it is satisfied that the omission was inadvertent or the result of an honest mistake by order direct

(a) that he is not required to surrender his security interest; and

(b) that he values his security interest and amends his claim accordingly.

Interest after commencement of liquidation.

215. (1) Interest is payable on any claim in the liquidation of a company in respect of the period after the commencement of the liquidation in accordance with this section.

(2) Any surplus remaining after the payment of all claims in the liquidation of a company shall, before being applied for any other purpose, be applied in paying interest on those claims in respect of the periods during which they have been unpaid since the commencement of the liquidation.

(3) Subject to section 151, all interest payable under this section ranks equally, whether or not the claims on which it is payable rank equally and if the

assets of the company are insufficient to meet the claims in full, they shall be paid rateably.

(4) The rate of interest payable under this section is the greater of

(a) the court rate; and

(b) the rate that would be applicable to the claim if a liquidator of the company had not been appointed.

DISTRIBUTIONS

Power to exclude creditors not claiming in time.

216. (1) The liquidator of a company may, by written notice sent to the creditors of the company, fix a date on or before which creditors shall submit their claims to him.

(2) Where the liquidator sends a notice to creditors under subsection (1), a creditor who does not submit a claim on or before the date specified in the notice is excluded form the benefit of any distribution on or after that date that is made before he submits his claim.

DISCLAIMER

Liquidator may disclaim onerous property.

217. (1) For the purposes of this section, "onerous property" means

(a) an unprofitable contract; or

(b) assets of the company which are unsaleable or not readily saleable, or which may give rise to a liability to pay money or perform an onerous act.

(2) Subject to section 219, the liquidator of a company may, by filing a notice of disclaimer with the Court, disclaim any onerous property of the company even though he has taken possession of it, tried to sell or assign it or otherwise exercised rights of ownership in relation to it.

(3) A liquidator who disclaims onerous property shall, within 14 days of the date on which the disclaimer notice is filed, give notice to every person whose rights are, to the knowledge of the liquidator, affected by the disclaimer.

(4) A liquidator who contravenes subsection (3) commits an offence.

When disclaimer takes effect.

218. (1) Subject to subsection (2), a disclaimer takes effect on the date when the notice of disclaimer is filed at Court.

(2) The disclaimer of property of a leasehold nature does not take effect unless a copy of the disclaimer notice has been given, so far as the liquidator is aware of their addresses, to every person claiming under the company as underlessee or mortgagee and either

(a) no application for a vesting order is made under section 221 with respect to that property before the end of a period of 14 days beginning with the day on which the last notice under this subsection was given; or

(b) where such an application is made, the Court directs that the disclaimer shall take effect.

(3) Where the Court gives a direction under subsection (2)(b), it may also, instead of or in addition to any order it makes under section 221, make such orders with respect to fixtures, tenant's improvements and other matters arising out of the lease as it considers fit.

Notice to liquidator to elect whether to disclaim.

219. (1) A person interested in property or whose rights would be effected by the disclaimer of property may, by serving a notice to elect on the liquidator, require him to elect whether or not to disclaim the property.

(2) Where a notice to elect is served on a liquidator, he is not entitled to disclaim the property under section 217 unless he does so within 28 days of the date of service of the notice on him or within such extended period as the Court may allow.

Effect of disclaimer.

220. (1) A disclaimer of onerous property under section 217

(a) operates so as to determine, with effect from the date of the disclaimer, the rights, interests and liabilities of the company in or in respect of the property disclaimed; but

(b) except so far as is necessary to release the company from liability, does not affect the rights or liabilities of any other person.

(2) A person suffering loss or damage as a result of a disclaimer of onerous property under section 217 may claim in the liquidation of the company as a creditor for the amount of the loss or damage.

Vesting orders and orders for delivery.

221. (1) Subject to section 222, if a liquidator disclaims onerous property under section 217, the Court may make an order under subsection (2) on the application of

(a) a person who claims an interest in the disclaimed property; or

(b) a person who is under a liability in respect of the disclaimed property, that has not been discharged by the disclaimer.

(2) On an application under subsection (1), the Court may, on such terms as it considers fit, order that the disclaimed property be vested in or delivered to

(a) a person entitled to the property;

(b) a person under a liability in respect of the property that has not been discharged by the disclaimer; or

(c) a trustee for a person referred to in paragraph (a) or (b).

(3) The Court shall not make an order in respect of a person specified in subsection (2)(b), or in respect of a trustee of such a person, unless it appears to the Court that it would be fair to do so for the purpose of compensating the person subject to the liability in respect of the disclaimer.

(4) The effect of any order under this section shall be taken into account in assessing the extent of the loss or damage suffered by a person for the purposes of section 220(2).

(5) Subject to subsection (6), where a vesting order is made under this section vesting property in a person, the property vests immediately without any conveyance, transfer or assignment.

(6) Where another Virgin Islands enactment

(a) requires the transfer of property vested by an order under this section to be registered; and

(b) that enactment enables the order to be registered;

on the making of a vesting order, the property vests in equity but does not vest at law until the registration requirements of the enactment have been complied with.

Vesting orders in respect of leases.

222. (1) Where the Court makes an order under section 221 vesting property of a leasehold nature in a person claiming under the company in liquidation as an underlessee or a mortgagee, the vesting order shall be made on terms that make that person subject

(a) to the same liabilities and obligations as the company was subject to under the lease at the commencement of the liquidation; or

(b) to the same liabilities and obligations as that person would have

been subject to if the lease had been assigned to him at the commencement of the liquidation.

(2) Where the property vested by an order under section 221 relates to only part of the property comprised in a lease, subsection (1) applies as if the lease comprised the property subject to the vesting order.

(3) Where no underlessee or mortgagee is willing to accept a vesting order made subject to subsection (1), the Court, by order

(a) may vest the property in any person who is liable, whether personally or in a representative capacity and whether alone or jointly with the company, to perform the lessee's covenants in the lease; and

(b) where a vesting order is made under paragraph (a), may vest the property free from all estates, encumbrances and interests created by the company.

(4) Where an underlessee or a mortgagee declines to accept a vesting order made subject to subsection (1), he is excluded from all interest in the property.

Land subject to rentcharge.

223. Where land subject to a rentcharge is disclaimed and that land vests by operation of law in any person, including the Crown, that person and his successors in title are not subject to any personal liability in respect of any sums becoming due under the rentcharge except sums except sums becoming due after he, or some person claiming title under or through him, has taken possession or control of the land or has entered into occupation of it.

Disclaimer presumed valid.

224. Unless it is proved that a liquidator has breached his duty to give notice under section 217(3) or that he has otherwise breached his duties under this Act or the Rules with regard to disclaimer, a disclaimer of property by the liquidator is presumed to be valid and effective.

INVESTIGATION OF ASSETS AND AFFAIRS OF COMPANY

Statement of affairs.

225. (1) In this section, "relevant person" has the meaning specified in section 275.

(2) The liquidator or provisional liquidator of a company may require one or more relevant persons to prepare a statement of affairs of the company in accordance with Part **XI**, Division **2**.

(3) Subject to section 280, the liquidator or provisional liquidator shall file with the Court each statement of affairs and each affidavit of concurrence that he receives.

Preliminary report.

226. (1) The liquidator of a company shall, within sixty days of the commencement of the liquidation, prepare a preliminary report covering, to the best of his knowledge and belief, the following matters:

(a) in the case of a company with share capital, the amount of capital issued, subscribed and paid up;

(b) the assets and liabilities of the company;

(c) if the company has failed, the causes of the failure; and

(d) whether, in his opinion, further enquiries are desirable with respect to

(i) any matter relating to the promotion, formation or insolvency of the company or the conduct of the business or affairs of the company; and

(ii) possible claims under Part **IX**.

(2) The liquidator shall send a copy of the report prepared under subsection (1)

(a) to each creditor of the company; and

(b) if in his report he states that further enquiries are desirable with respect to a matter referred to in subsection (1)(d), to the Official Receiver.

(3) Subsection (2)(b) does not apply to the Official Receiver when he is acting as the liquidator of a company.

(4) The Court may, on the application of the liquidator, extend the period specified in subsection (1) on such terms and conditions as it considers fit.

Duty of Official Receiver concerning report under section 226.

227. Where the Official Receiver receives a report under section 226, he shall carry out such investigation, if any, as he considers appropriate.

MISCELLANEOUS PROVISIONS

Liquidator to call meetings of creditors.

228. (1) The liquidator shall call a meeting of the creditors of a company in liquidation if

(a) a meeting is requisitioned by the creditors of the company in accordance with subsection (2); or

(b) he is directed to do so by the Court.

(2) A creditors' meeting may be requisitioned in accordance with the Rules by 10 per cent in value of the creditors of the company.

Recession of contracts by the Court.

229. (1) On the application of a person who is, as against the liquidator of a company, entitled to the benefit or subject to the burden of a contract made with the company, the Court may make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the Court considers just.

(2) Any damages payable to a person under an order made under subsection (1) may be claimed by him as a debt in the liquidation of the company.

Inspection of books by creditors.

230. (1) At any time after the appointment of a liquidator of a company, the Court may, on such terms as it considers appropriate, make an order for the inspection of specified books, records and documents of the company that are in its possession.

(2) Application for an order under subsection (1) may be made by a creditor or member of the company.

Enforcement of liquidator's duties.

231. (1) In this section "specified person" means

(a) the Official Receiver;

(b) a creditor of a company in liquidation; or

(c) a member of a company in liquidation.

(2) If a liquidator fails to file any notice, return, account or other document, a specified person may serve a notice on the liquidator requiring him to remedy the default.

(3) If a liquidator fails to remedy the default specified in a notice served under subsection (1) within 14 days of service of the notice on him, any specified person may apply to the Court for an order that the liquidator remedy the default within such time as the Court may specify.

(4) The Court may order that the costs of and incidental to an application under this section are payable by the liquidator personally.

(5) A liquidator who fails to comply with an order made under subsection (3) commits an offence.

(6) This section does not prejudice any other provision of this Act or any other enactment

TERMINATION OF LIQUIDATION

Termination of liquidation.

232. The liquidation of a company terminates on the first occurring of

(a) the making by the Court of an order terminating the liquidation under section 233, or such later date as may be specified in the order;

(b) the filing by the liquidator of a certificate of compliance with the provisions of section 234(2), as modified by the Court under section 234(4), if appropriate; or

(c) the making by the Court of an order under section 234(4) exempting the liquidator from compliance with 234(2), or such later date as may be specified in the order.

Order terminating liquidation.

233. (1) The Court may, at any time after the appointment of the liquidator of a company, make an order terminating the liquidation if it is satisfied that it is just and equitable to do so.

(2) An application under this section may be made by the liquidator, a creditor, a director or a member of the company or the Official Receiver.

(3) Before making an order under subsection (1), the Court may require the liquidator to file a report with respect to any matters relevant to the application.

(4) An order under subsection (1) may be made subject to such terms and conditions as the Court considers appropriate and, on making the order or at any time thereafter, the Court may give such supplemental directions or make such other order as it considers fit in connection with the termination of the liquidation.

(5) Where the Court makes an order under subsection (1), the company ceases to be in liquidation and the liquidator ceases to hold office with effect from the date of the order or such later date as may be specified in the order.

(6) Where the Court makes an order under subsection (1), the person who applied for the order shall, within ten days of the date of the order, file a sealed copy of the order with the Registrar.

(7) A person who contravenes subsection (6) commits an offence.

Completion of liquidation.

234. (1) In this section "Register" means, as appropriate

(a) the register of international business companies maintained by the Registrar under the International Business Companies Act; or Cap. 291

(b) the register of companies maintained by the Registrar under the Companies Act. Cap. 285

(2) As soon as practicable after completing his duties in relation to the liquidation of a company, the liquidator shall

(a) prepare and send to every creditor of the company whose claim has been admitted and to every member of the company

(i) his final report, complying with subsection (3), and a statement of realisation and distribution in respect of the liquidation, and

(ii) a summary of the grounds upon which a creditor or member may object to the striking of the company from the Register; and

(b) file with the Registrar a copy the final report and the statement realisations and distributions sent to the creditors and members of the company.

(3) The final report of a liquidator shall contain a statement

(a) that all known assets of the company have been disclaimed, realised or distributed without realisation;

(b) that all proceeds of realisation have been distributed; and

(c) that there is no reason why, in his opinion, the company should not be struck from the Register, and dissolved.

(4) On the application of the liquidator, the Court may on such terms and conditions as it considers just,

(a) exempt the liquidator from compliance with subsection (2)(a); or

(b) modify the application of the provisions of subsection (2) to the liquidator.

Release of liquidator.

235. (1) A person who ceases to be the liquidator, or provisional liquidator, of a company may apply to the Court for his release and the Court my grant the release unconditionally or upon such conditions as it considers fit, or it may withhold it.

(2) If the Court withholds the release, it may make a compensation order against the former liquidator under section 254.

(3) Subject to subsection (5), where a former liquidator is released under this section, he is discharged from all liability in respect of any act or default of his in relation to the administration of the company.

(4) An order for the release of a former liquidator may be revoked by the Court if the release was obtained by fraud or the suppression or concealment of any material fact.

(5) Subsection (3) does not prevent the Court from making an order under section 254 against a liquidator who has been released under this section.

(6) Where the Official Receiver ceases to be liquidator and another liquidator is appointed in his place, the Official Receiver obtains his release

(a) from the appointment of the new liquidator; or

(b) such later date as the Court may determine.

(7) A liquidator who obtains his release under this section shall file a notice in the prescribed form with the Registrar.

Dissolution.

236. The Rules shall provide for the dissolution of a company on the termination and completion of the liquidation of the company.

PART VII

LIQUIDATION OF INSURANCE COMPANIES

Interpretation for and scope of this Part.

237. (1) In this Part,

"general business" and "long term business" have the meanings specified in section 2(1) of the Insurance Act; No. 15 of 1994

"general insurance company" means an insurance company that is authorised by its licence to carry on general business only;

"long term insurance company" means an insurance company that is authorised by its licence to carry on long term business, whether or not it is also authorised to carry on general business.

Modification of Act in respect of insurance companies.

238. The provisions of this Act relating to the liquidation of companies and foreign companies are modified in respect of insurance companies to the extent specified in this Part.

Appointment of liquidator by members.

239. (1) The members of a long term insurance company may not appoint a liquidator under Part **VI**.

(2) The members of a general insurance company, that is not a foreign company, may only appoint a liquidator under Part **VI** if the Commission has given its prior written consent to the appointment.

(3) Any resolution of the members

(a) of a long term insurance company to appoint a liquidator under Part **VI** in contravention of subsection (1); or

(b) of a general insurance company to appoint a liquidator under Part **VI** in contravention of subsection (2);

is void and of no effect.

(4) Where the members of general insurance company appoint a liquidator in accordance with this section, without limiting section 178(1)(a), the Commission may by notice in writing direct the liquidator to advertise his appointment in such manner as is specified in the notice.

(5) A liquidator who fails to advertise his appointment in accordance with a direction of the Commission issued under subsection (4) commits an offence.

Application for appointment of liquidator by Court.

240. (1) For the purposes of sections 162(1)(c) and 163(1)(c), the public interest includes the interests of the policyholders of an insurance company.

(2) The Court may, on the application of the Commission, appoint a liquidator of an insurance company if

(a) the company has failed to deliver to the Commission within the time
period specified in the Insurance Act

No. 15 of 1994

(i) a statement of the conditions of its affairs under section 22(1)(b) of that Act, or

(ii) being a long term insurer, an actuarial valuation of its assets and liabilities under section 43(1) or (2) of that Act;

(b) the company has entered into a contract, is carrying on, or has carried on, business or is using, or has used, its funds in a manner or for a purpose prohibited or not authorized by the Insurance Act, any regulations made under that Act or the company's memorandum or articles; or

(c) the total value of the company's assets does not exceed the total amount of its liabilities by at least the minimum margin of solvency
prescribed in respect of the company in the Insurance Regulations, 1995.

S.I. No. 10 of 1995

(3) On an application for the appointment of a liquidator under this section or under sections 162 or 179, evidence that an insurance company has at any time prior to the date of the application been insolvent is, unless the contrary is proved, evidence that the company continues to be insolvent.

(4) This section is in addition to, and not in substitution for, sections 162 and 179.

Reduction of contracts as alternative to winding up.

241. Where on an application for the appointment of a liquidator, the Court is satisfied that an insurance company is insolvent, it may reduce the amount of the insurance company's contracts on such conditions as it considers just, instead of appointing a liquidator.

Continuation of long term business by liquidator appointed by Court.

242. (1) The liquidator of a long term insurance company shall, unless the Court otherwise orders, carry on the long term business of the company with a with a view to it being transferred as a going concern to another insurance company, whether in existence or to be incorporated for the purpose.

(2) In carrying on the insurance company's long term business under subsection (1), the liquidator may agree to the variation of any contracts of insurance at the commencement of the liquidation, but he shall not effect any new contracts of insurance.

(3) On the application of the liquidator of a long term insurance company, the Court may by order reduce the amounts of the contracts made by the company in the course of carrying on its long term business.

(4) An order under subsection (3) may be made subject to such conditions as the Court considers appropriate.

(5) Without limiting section 186 or Schedule **2**, the liquidator of a long term insurance company may appoint an actuary to investigate and report to him on the long term business of the company and, if appropriate, to conduct actuarial valuations of the business. Schedule 2

243. (1) In the liquidation of a long term insurance company, the assets of the segregated funds of the company shall first be applied to meet the company's long term liabilities attributable to such funds. Protection of segregated funds and assets.

(2) If the value of the assets referred to in subsection (1) exceeds the amount of the long term liabilities of the company attributable to the segregated funds, the excess is an asset of the company available for distribution in accordance with this Act.

(3) Where the Court makes an order under section 254(3) in respect of a long term insurance company requiring a person to repay, restore or account for money or other assets, to pay compensation to the company or to pay interest to the company, the Court shall, insofar as the delinquency relates to assets belonging to the company's segregated funds, order that the money, assets or contribution is to be treated for the purposes of subsection (1) as assets of those funds.

PART VIII

VOIDABLE TRANSACTIONS

244. (1) In this Part, Interpretation for this Part.

"insolvent liquidation" means a liquidation of a company where the assets of the company are insufficient to pay its liabilities and the expenses of the liquidation;

"insolvency transaction" has the meaning specified in subsection (2).

"onset of insolvency" means

(a) the date on which the application for the administration order was filed, where a company is in liquidation and the liquidator was appointed by the Court immediately following the discharge of an administration order;

(b) the date on which the application for the appointment of the liquidator was filed, where a company is in liquidation and the liquidator was appointed by the Court in circumstances other than those set out in paragraph (a); or

(c) the date of the appointment of the liquidator, where a company is in liquidation and the liquidator was appointed by the members.

"voidable transaction" means

(a) an unfair preference;

(b) an undervalue transaction;

(c) a floating charge that is voidable under section 247; and

(d) an extortionate credit transaction.

"vulnerability period", means,

(a) for the purposes of sections 245, 246 and 247

(i) in the case of a transaction entered into with, or a preference given to, a connected person, the period commencing 2 years prior to the onset of insolvency and ending on the appointment of the administrator or, if the company is in liquidation, the liquidator; and

(ii) in the case of a transaction entered into with, or a preference given to, any other person, the period commencing six months prior to the onset of insolvency and ending on the appointment of the administrator or, if the company is in liquidation, the liquidator; and

(b) for the purposes of section 248, the period commencing 5 years prior to the onset of insolvency and ending on the appointment of the administrator or, if the company is in liquidation, the liquidator;

(2) A transaction is an insolvency transaction if

(a) it is entered into at a time when the company is insolvent; or

(b) it causes the company to become insolvent;

(3) For the purposes of subsection (2), "insolvent" has the meaning specified in section 8(1) with the deletion of paragraph (c)(i).

(4) This Part applies in respect of

(a) a company that is in administration; and

(b) a company and a foreign company that is in liquidation and, where appropriate, "company" includes a foreign company.

Unfair preferences.

245. (1) Subject to subsection (2), a transaction entered into by a company is an unfair preference given by the company to a creditor if the transaction

(a) is an insolvency transaction;

(b) is entered into within the vulnerability period; and

(c) has the effect of putting the creditor into a position which, in the event of the company going into insolvent liquidation, will be better than the position he would have been in if the transaction had not been entered into.

(2) A transaction is not an unfair preference if the transaction took place in the ordinary course of business.

(3) A transaction may be an unfair preference notwithstanding that it is entered into pursuant to the order of a court or tribunal in or outside the Virgin Islands.

(4) Where a transaction entered into by a company within the vulnerability period has the effect specified in subsection (1)(c) in respect of a creditor who is a connected person, unless the contrary is proved, it is presumed that the transaction was an insolvency transaction and that it did not take place in the ordinary course of business.

Undervalue transactions.

246. (1) Subject to subsection (2), a company enters into an undervalue transaction with a person if

(a) the company makes a gift to that person or otherwise enters into a transaction with that person on terms that provide for the company to receive no consideration; or

(b) the company enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by the company; and

(c) in either case, the transaction concerned

(i) is an insolvency transaction; and

(ii) is entered into within the vulnerability period.

(2) A company does not enter into an undervalue transaction with a person if

(a) the company enters into the transaction in good faith and for the purposes of its business; and

(b) at the time when it enters into the transaction, there were reasonable grounds for believing that the transaction would benefit the company.

(3) A transaction may be an undervalue transaction notwithstanding that it is entered into pursuant to the order of a court or tribunal in or outside the Virgin Islands.

(4) Where a company enters into a transaction with a connected person within the vulnerability period and the transaction falls within subsection (1)(a) or subsection (1)(b), unless the contrary is proved, it is presumed that

(a) the transaction was an insolvency transaction; and

(b) subsection (2) did not apply to the transaction.

Voidable floating charges.

247. (1) Subject to subsection (2), a floating charge created by a company is voidable if

(a) it is created within the vulnerability period; and

(b) it is an insolvency transaction.

(2) A floating charge is not voidable to the extent that it secures

(a) money advanced or paid to the company, or at its direction, at the same time as, or after, the creation of the charge;

(b) the amount of any liability of the company discharged or reduced at the same time as, or after, the creation of the charge;

(c) the value of assets sold or supplied, or services supplied, to the company at the same time as, or after, the creation of the charge; and

(d) the interest, if any, payable on the amount referred to in paragraphs (a) to (c) pursuant to any agreement under which the money was advanced or paid, the liability was discharged or reduced, the assets were sold or supplied or the services were supplied.

(3) For the purposes of this section, where a company creates a floating charge in favour of a connected person within the vulnerability period, unless the contrary is proved, it is presumed that the charge was an insolvency transaction.

(4) For the purposes of subsection (2)(c), the value of assets or services sold or supplied is the amount in money which, at the time they were sold or supplied, could reasonably have been expected to be obtained for the sale or supply of the goods or services in the ordinary course of business and on the same terms, apart from the consideration, as those on which the assets or services were sold or supplied to the company.

Extortionate credit transactions.

248. A transaction entered into by the company within the vulnerability period for, or involving the provision of, credit to the company is an extortionate credit transaction if, having regard to the risk accepted by the person providing the credit

(a) the terms of the transaction are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of credit; or

(b) the transaction otherwise grossly contravenes ordinary principles of fair trading.

Orders in respect of voidable transactions.

249. (1) Subject to section 250, where it is satisfied that a transaction entered into by a company is a voidable transaction the Court, on the application of the liquidator of the company,

(a) may make an order setting aside the transaction in whole or in part;

(b) in respect of an unfair preference or an undervalue transaction, may make such order as it considers fit for restoring the position to what it would have been if the company had not entered into that transaction; and

(c) in respect of an extortionate credit transaction, may by order provide for any one or more of the following:

(i) the variation of the terms of the transaction or the terms on which any security interest for the purposes of the transaction is held;

(ii) the payment by any person who is or was a party to the transaction to the liquidator of any sums paid by the company to that person by virtue of the transaction;

(iii) the surrender by any person to the liquidator of any asset held by him as security for the purposes of the transaction; and

(iv) the taking of accounts between any persons.

(2) Without prejudice to the generality of subsection (1)(b), an order under that paragraph may

(a) require any assets transferred as part of the transaction to be vested in the company;

(b) require any assets to be vested in the company if it represents in any person's hands the application either of the proceeds of sale of assets transferred or of money transferred, in either case as part of the transaction;

(c) release or discharge, in whole or in part, any security interest given by the company or the liability of the company under any contract;

(d) require any person to pay, in respect of benefits received by him from the company, such sums to the liquidator as the Court may direct;

(e) provide for any surety or guarantor whose obligations to any person were released or discharged, in whole or in part, under the transaction, to be under such new or revived obligations to that

person as the Court considers appropriate;

(f) provide for security to be provided for the discharge of any obligation imposed by or arising under the order, for such an obligation to be charged on any assets and for the security interest or charge to have the same priority as a security interest or charge released or discharged, in whole or in part, under the transaction;

(g) provide for a person effected by an order made under subsection (1) to prove in the liquidation of the company in such amount as the Court considers fit; and

(h) require the company to make a payment or transfer assets to any person affected by an order made under subsection (1).

(3) Subject to section 250, in respect of an unfair preference or an undervalue transaction, an order under subsection (1) may affect the assets of, or impose any obligation on, any person whether or not he is the person with whom the company in question entered into the transaction.

Limitations on orders under section 249.

250. (1) This section applies to an order made under section 249(1) in respect of an unfair preference or an undervalue transaction.

(2) An order to which subsection (1) applies shall not

(a) prejudice any interest in assets that was acquired in good faith and for value from a person other than the company, or prejudice any interest deriving from such an interest; or

(b) require a person who received a benefit from the transaction in good faith and for value to pay a sum to the liquidator, except where that person was a party to the transaction or, in respect of an unfair preference, the preference was given to that person when he was a creditor of the company.

(3) For the purposes of subsection (2), where a person would, apart from the requirement for good faith, fall within the circumstances specified in paragraph (a) or (b), it is presumed, unless the contrary is proved, that he acquired the interest or received the benefit in good faith.

(4) Subsection (3) does not apply to a person

(a) who, at the time of the transaction, had notice of

(i) the fact that the transaction was an unfair preference or an undervalue transaction, as the case may be; or

(ii) the relevant proceedings as defined in subsection (5); or

(b) who was, at the time of the transaction, a connected person.

(5) For the purposes of subsection (4), a person has notice of the relevant proceedings if,

(a) in the case of a company in administration, he had notice of the filing of the application on which the administration order was made;

(b) in the case of a company where a liquidator was appointed immediately following the discharge of an administration order, he had notice of the filing of the application on which the administration order was made or the filing of the application on which the order appointing a liquidator was made; or

(c) in the case of a company where a liquidator was appointed in circumstances other than those set out in paragraph (b), he had notice of the filing of the application on which the order appointing a liquidator was made.

Recoveries.

251. Any money paid to, assets recovered or other benefit received by the liquidator as a result of an order made under section 249 are deemed to be assets of the company available to pay unsecured creditors of the company.

Remedies not exclusive.

252. The provisions of this Part apply without prejudice to the availability of any other remedy, even in relation to a transaction that the company had no power to enter into.

PART IX

MALPRACTICE

Interpretation for this Part.

253. In this Part,

(a) a company or a foreign company goes into insolvent liquidation if a liquidator is appointed at a time when its assets are insufficient to pay its liabilities and the expenses of the liquidation; and

(b) a relevant company is a company or a foreign company that has gone into insolvent liquidation.

Summary remedy against delinquent officers and others.

254. (1) On the application of the liquidator of a relevant company, the Court may make an order under subsection (3) where it is satisfied that a person specified in subsection (2)

(a) has misapplied or retained, or become accountable for any money or other assets of the company; or

(b) has been guilty of any misfeasance or breach of any fiduciary or other duty in relation to the company.

(2) An order under subsection (3) may be made against a person

(a) who is or has been an officer of the company;

(b) who has acted as liquidator of the company;

(c) who, in the case of a relevant company that is not a foreign company, has acted as administrator, administrative receiver, supervisor or interim supervisor of the company; or

(d) who, not being a person falling within paragraphs (a) or (b), is or has been concerned in the promotion, formation, management, liquidation or dissolution of the company.

(3) Where subsection (1) applies, the Court may make one or more of the following orders against the person:

(a) that he repays, restores or accounts for the money or other assets, or any part of it;

(b) that he pays to the company as compensation for the misfeasance or breach of duty such sum as the Court considers just; and

(c) that he pays interest to the company at such rate as the Court considers just.

(4) The Court shall not make an order under subsection (3) unless it has given the person the opportunity

(a) to give evidence, call witnesses and bring other evidence in relation to the application; and

(b) to be represented, at his own expense, by a legal practitioner who may put to him, or to other witnesses, such questions as the Court may allow for the purpose of explaining or qualifying any answers or evidence given.

(5) Application may not be made for an order under this section against a liquidator or an administrator who has been released, except with the leave of the Court.

(6) Nothing in this section prevents any person from instituting any other proceedings in relation to matters in respect of which an application may be made under this section.

Fraudulent trading.

255. (1) On the application of the liquidator of a relevant company, the Court may make an order under subsection (2) where it is satisfied that, at any time before the commencement of the liquidation of the company, any of its business has been carried on

(a) with intent to defraud creditors of the company or creditors of any other person; or

(b) for any fraudulent purpose.

(2) Where subsection (1) applies, the Court may declare that any person who was knowingly a party to the carrying on of the business in such manner are liable to make such contribution, if any, to the company's assets as the Court considers proper.

Insolvent trading.

256. (1) On the application of the liquidator of a relevant company, the Court may make an order under subsection (2) against a person who is or has been a director of the company if it is satisfied that

(a) at any time before the commencement of the liquidation of the company, that person knew or ought to have concluded that there was no reasonable prospect that the company would avoid going into insolvent liquidation, and

(b) he was a director of the company at that time.

(2) Subject to subsection (3), where subsection (1) applies, the Court may order that that the person concerned makes such contribution, if any, to the company's assets as the Court considers proper.

(3) The Court shall not make an order against a person under subsection (2) if it is satisfied that after he first knew, or ought to have concluded, that there was no reasonable prospect that the company would avoid going into insolvent liquidation, he took every step reasonably open to him to minimise the loss to the company's creditors.

(4) For the purposes of subsections (1) and (3), the facts which a director of a company ought to know or ascertain, the conclusions which he ought to reach and the steps reasonably open to him which he ought to take are those which would be known or ascertained, or reached or taken, by a reasonably diligent person having both

(a) the general knowledge, skill and experience that may reasonably be expected of a person carrying out the same functions as are carried out by that director in relation to the company; and

(b) the general knowledge, skill and experience that that director has.

(5) The reference in subsection (4) to the functions carried out in relation to a company by a director of the company includes any function which he does not carry out but which have been entrusted to him.

(6) Nothing in this section affects section 255.

Recoveries under sections 255 and 256.

257. Any money paid to, assets recovered or other benefit received by the liquidator as a result of an order made under section 255 or section 256 are deemed to be assets of the company available to pay unsecured creditors of the company.

Ancillary orders.

258. (1) Where the Court makes an order under section 255 or section 256, it may make give such directions or make such further order as it considers proper for giving effect to the order.

(2) Without limiting subsection (1), the Court may

(a) provide for the liability of any person under the order to be a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in a mortgage or charge on assets of the company held by or vested in him, or any person on his behalf, or any person claiming as assignee from or through the person liable or any person acting on his behalf; and

(b) from time to time make such further order as may be necessary for enforcing any charge imposed under this subsection.

(3) For the purposes of subsection (2), "assignee"

(a) includes a person to whom or in whose favour, by the directions of the person made liable, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but

(b) does not include an assignee for valuable consideration, not including consideration by way of marriage, given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(4) Where the court makes a declaration under either section 255 or 256 in relation to a person who is a creditor of the company, it may direct that the whole or any part of any debt owed by the company to that person and any interest on the debt shall rank in priority after all other debts owed by the company and after any interest on those debts.

(5) Sections 255 and 256 have effect notwithstanding that the person concerned may be criminally liable in respect of matters on the ground of which the declaration under the section is to be made.

PART X

DISQUALIFICATION ORDERS AND UNDERTAKINGS

Interpretation for this Part.

Cap. 291

259. (1) In this Part "voluntary liquidator" means a liquidator appointed by the directors or members of an international business company under Part IX of the International Business Companies Act.

(2) For the purposes of this Part, a company becomes insolvent if

(a) an administration order is made in respect of the company;

(b) an administrative receiver of the company is appointed;

(c) a liquidator of the company is appointed at a time when its assets are insufficient to pay its liabilities and the expenses of the liquidation; or

(d) a liquidator is appointed by the Court on the ground specified in section 162(1)(c).

Disqualification orders and undertakings.

260. (1) A disqualification order is an order that a person shall not, for the period specified in the order, engage in a prohibited activity without the leave of the Court.

(2) A disqualification undertaking is an undertaking in writing given by a person to the Official Receiver that he will not, for the period specified in the undertaking, engage in a prohibited activity without the leave of the Court.

(3) For the purpose of this Part, a person engages in a prohibited activity if

(a) he is a director of a company;

(b) he acts as the voluntary liquidator of a company;

(c) he acts as the receiver of the assets of a company;

(d) he acts as an insolvency practitioner; or

(e) in any way, whether directly or indirectly, he is concerned with or takes part in the promotion, formation or management of a company; or

(e) he undertakes any activity prescribed as a prohibited activity.

(4) A person is a "disqualified person" for the period in which

(a) a disqualification order has effect against him; or

(b) a disqualification undertaking is in place in respect of him.

(5) The period specified in a disqualification order, or disqualification undertaking, made against or in respect of a person, runs concurrently with the period specified in any other disqualification order or disqualification undertaking made against or in respect of that person.

Application for disqualification order.

261. (1) Subject to subsection (2), the Official Receiver may apply to the Court for a disqualification order against a person under section 262.

(2) An application for a disqualification order may not be made more than six years after the date on which the company concerned became insolvent.

Hearing of application for disqualification order.

262. (1) On an application under section 261, the Court may, make a disqualification order against a person

(a) who has been convicted on indictment

(i) of an offence in connection with the promotion, formation, management or dissolution of a company that is or becomes insolvent, or

(ii) of an offence under this Act that relates to a company that at any time becomes insolvent,

whether the person was convicted before or after the company became insolvent;

(b) who has had an order under section 255 or section 256 made

against him;

(c) who is or has been a director, voluntary liquidator or receiver of a company that is or becomes insolvent, whether while he was a director, voluntary liquidator or receiver or subsequently, and

(i) has been guilty of fraud in relation to the company or of any misfeasance or breach of duty as a director, voluntary liquidator or receiver of the company,

(ii) where the Court is of the opinion that the person's conduct as director, voluntary liquidator or receiver, either taken alone or taken together with his conduct as a director, voluntary liquidator or receiver of any other company or companies, makes him unfit to be concerned in the promotion, formation or management of companies or in their liquidation or dissolution; or

(d) who, being a person to whom this paragraph applies, has been guilty of fraud in relation to the company or of any misfeasance or breach of duty in relation to the company.

(2) For the purposes of subsection (1)(c), "receiver" means a receiver other than an administrative receiver.

(3) The reference in subsection (1)(c)(ii) to a person's conduct as a director, voluntary liquidator or receiver of a company includes that person's conduct in relation to any matter connected with or arising out of the insolvency of that company.

(5) The Court shall, on making a disqualification order, specify the period for which the order has effect.

(6) The period referred to in subsection (5) shall commence on a date no earlier than the date of the order and no later than 28 days after the date of the order and shall not exceed ten years.

(7) A person against whom an application for a disqualification order is made may appear and give evidence or call witnesses on the hearing of the application.

Matters for determining unfitness of directors.

263. Without limiting section 262(1)(c)(ii), in determining whether a person's conduct as a director, voluntary liquidator or receiver of a company makes him unfit to be concerned in the promotion, formation or management of companies or in their liquidation or dissolution, the Court shall, as respects his conduct as a

director, voluntary liquidator or receiver of that company, have regard in particular to

(a) any misfeasance or breach of any fiduciary or other duty by him in relation to the company;

(b) any misapplication or retention by him of, or any conduct by the director giving rise to an obligation to account for, any money or other assets of the company;

(c) the extent of his responsibility for the company entering into any transaction liable to be set aside under Part **VIII**;

(d) in the case of a director

(i) where the company or the board has persistently failed to comply with the Companies Act or the International Business Companies Act, as the case may be, the extent of his responsibility for such failure, Cap. 285 Cap. 291

(ii) the extent of his responsibility for the causes of the company becoming insolvent, and

(iii) the extent of his responsibility for any failure by the company to supply any goods or services which have been paid for (in whole or in part);

(e) his failure to comply with any obligation imposed on him under this Act; and

(f) in the case of a voluntary liquidator, any failure to comply with section 96(1)(b) of the International Business Companies Act.

Disqualification undertaking.

264. (1) A person against whom a disqualification order could be made under section 262 may offer the Official Receiver a disqualification undertaking, whether or not the Official Receiver has made an application against him under that section.

(2) The Official Receiver may accept an offer made to him under subsection (1) if he considers that

(a) there is a reasonable prospect that, on the hearing of an application under section 262, the Court would make a disqualification order against the person offering the undertaking; and

(b) it is expedient and in the public interest to accept the offer.

(3) A disqualification undertaking shall specify a period, commencing on the date of the undertaking, for which the undertaking has effect.

(4) The period referred to in subsection (3) shall not exceed ten years.

General provisions concerning disqualification orders and undertakings.

265. (1) A disqualification order may be made, or a disqualification undertaking accepted, on grounds which are or include matters other than criminal convictions, notwithstanding that the person concerned may be criminally liable in respect of those matters.

(2) Where the Court makes a disqualification order, or the Official Receiver accepts a disqualification undertaking, the Official Receiver shall, within 14 days of the date of the order or of his acceptance of the undertaking, file a notice in the prescribed form with the Registrar.

Variation of disqualification order or undertaking.

266. (1) The Court may, on the application of a disqualified person, vary a disqualification order or a disqualification undertaking.

(2) Without limiting subsection (1), an order under that subsection may

(a) reduce the period for which the disqualification order, or undertaking, is in force; or

(b) in the case of a disqualification undertaking, provide for it to cease to be in force.

(3) An application for an order under subsection (1) shall be served on the Official Receiver no less than 14 days prior to the date of the hearing and the Official Receiver shall appear or be represented and is entitled to call or give evidence at the hearing.

(4) Where the Court varies a disqualification order or undertaking, the Official Receiver shall, within 14 days of the date of the order, file a notice in the prescribed form with the Registrar.

Offence provisions.

267. A disqualified person who engages in a prohibited activity commits an offence.

Liability for engaging in prohibited activity.

268. (1) A disqualified person incurs personal liability for the debts of a company in accordance with subsection (2) if, without the leave of the Court,

(a) he is involved in the management of a company; or

(b) as a person involved in the management of a company, he acts on the instructions of a person he knows to be a disqualified person

or an undischarged bankrupt.

(2) Subject to subsection (3), the liability of a person to whom subsection (1) applies is

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(a) to a liquidator of the company for every outstanding liability; and

(b) to a creditor of the company for a liability to that creditor;

incurred by the company at a time when subsection (1) applies to him.

(3) A creditor may not take action against a person under subsection (2)(b) if the company is in liquidation.

(4) For the purposes of subsection (1), a person is involved in the management of a company if

(a) he is a director of the company; or

(b) he is concerned, whether directly or indirectly, or takes part, in the management of the company.

(5) For the purposes of this section, a person who, as a person involved in the management of a company, has at any time acted on instructions given without the leave of the court by a person whom he knew at that time to be a disqualified person or to be an undischarged bankrupt is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by that person.

Official Receiver to appear on certain applications.

269. The Official Receiver shall appear and call the attention of the Court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses on the hearing of

(a) an application by the Official Receiver for a disqualification order;

(b) an application made by any person for leave under this Part.

Register of disqualification orders.

270. (1) The Registrar shall register in a Register of Disqualification Orders and Undertakings to be maintained by him for the purpose

(a) each disqualification order or undertaking in respect of which notice is filed under section 265; and

(b) each variation of a disqualification order or undertaking in respect of which notice is filed under section 266.

(2) When a disqualification order or undertaking ceases to be in force, the Registrar shall delete the entry from the Register.

(3) The Register of Disqualification Orders and Undertakings shall be open to inspection on payment of such fee as may be prescribed.

(4) No person shall be construed as having knowledge that another person is a disqualified person by virtue of an entry in the Register of Disqualification Orders.

Duties of office holders.

271. (1) If it appears to the liquidator, administrator or administrative receiver of a company that the conduct of a director or former director of the company, either taken alone or taken together with his conduct as a director of any other company or companies, makes him unfit to be concerned in the management of companies, he shall prepare a written report in the prescribed form and send it to the Official Receiver.

(2) The Official Receiver may by notice in writing require a liquidator, administrator or administrative receiver who has sent him a report under subsection (1) to

(a) provide him with such information or explanations; or

(b) to produce such books, records or other documents;

as he may reasonably require for considering or preparing an application for an order under section 262.

(3) If a liquidator, administrator or administrative receiver fails to comply with a notice issued under subsection (2), the Court may, on the application of the Official Receiver, make an order directing compliance within the period specified in the order.

(4) The Court may order that the costs of and incidental to an application under subsection (3) shall be borne by the person against whom the order is made.

(5) A person who fails to comply with an order made under subsection (3) commits an offence.

PART XI

GENERAL PROVISIONS WITH REGARD TO COMPANIES THAT ARE INSOLVENT OR IN LIQUIDATION

Division 1 - General

Interpretation.

272. (1) Subject to subsection (2), in this Part "office holder", in respect of a company, means its administrator, its liquidator, its provisional liquidator or its administrative receiver.

(2) In Division **2**, "office holder" has the meaning specified in section 275.

Application to Court concerning office holder.

273. A person aggrieved by an act, omission or decision of an office holder may apply to the Court and the Court may confirm, reverse or modify the act, omission or decision of the office holder.

Company's books.

274. Where a company is in administration or liquidation, all documents of the company and of the administrator or liquidator are, as between the members of the company, *prima facie* evidence of the truth of all matters purporting to be recorded in them.

Division 2 - Statement of Affairs

Interpretation for this Division.

275. (1) In this Division,

"office holder", in respect of a company, means its administrator, its liquidator, its provisional liquidator or its administrative receiver;

"relevant period" means the period of two years prior to,

(a) in the case of a company in administration, the date of the administration order,

(b) in the case of a company in liquidation, the date of the appointment of the liquidator,

(c) where a provisional liquidator has been appointed, the date of his appointment, and

(d) where an administrative receiver has been appointed, the date of his appointment;

"relevant person" means

(a) a person who is or who, within the relevant period, has been an officer of the company,

(b) a person who is or who, within the relevant period, has been in the employment of the company and who, in the office holder's opinion is capable of providing the information required,

(c) a person who is or who, within the relevant period, has been an officer of or in the employment of a company which is an officer of the company, or

(d) a person who, within the relevant period, has promoted the formation of the company;

(2) For the purposes of the definition of "relevant person", "employment" includes employment under a contract for services.

Notice to be given by office holder.

276. (1) Where, pursuant to a provision in this Act, an office holder requires a relevant person to prepare a statement of affairs and submit it to him, he shall send a notice to that person in the prescribed form.

(2) A notice sent under subsection (1) shall specify a date by which the statement of affairs is to be delivered to him, which shall be no earlier than 24 days after the date upon which the notice is sent to the relevant person.

Statement of Affairs.

277. (1) A statement of affairs shall be in the prescribed form and contain the particulars prescribed.

(2) Without limiting subsection (1), the following particulars shall be set out in a statement of affairs:

(a) the assets and liabilities of the company;

(b) the names and addresses of the creditors of the company;

(c) the security interests held by creditors of the company and the dates upon which the security interests were created; and

(d) such further information as may be prescribed.

(3) Subject to section 278, a relevant person required by an office holder to prepare and submit a statement of affairs shall verify the statement of affairs by affidavit and submit the statement of affairs to the office holder, together with the

verifying affidavit, on or before the date specified in the notice sent to him under section 276(1).

(4) A relevant person who, without reasonable excuse, contravenes subsection (3) commits an offence.

Affidavit of concurrence.

278. (1) A relevant person required by an office holder to prepare and submit a statement of affairs may, instead, submit an affidavit of concurrence complying with the Rules.

(2) A relevant person who submits an affidavit of concurrence to an office holder on or before the date specified in the notice sent to him does not commit an offence under section 277(4).

Release from duty to submit statement of affairs.

279. (1) An office holder or the Court may, in accordance with the Rules,

(a) release a person from an obligation imposed on him to prepare and submit a statement of affairs; or

(b) extend the period of time for the submission of the statement of affairs.

(2) An order of the Court under this section may be made subject to such terms and conditions as the Court considers fit.

Application for order of limited disclosure.

280. (1) Where an office holder considers that it would prejudice the conduct of the insolvency proceeding for the whole or part of a statement of affairs submitted to him to be disclosed, he may apply to the Court for an order of limited disclosure in respect of the statement of affairs, or any specified part of it.

(2) The Court may, on an application under subsection (1), order that the statement of affairs or, as the case may be, the specified part of it,

(a) in the case of an administrative receivership, is not to be open to inspection otherwise than with leave of the Court; or

(b) in any other case, is not filed in Court, or that it is filed separately and that it is not to be open to inspection otherwise than with leave of the Court.

(3) An order of the Court under subsection (2) may include directions as to the delivery of documents to the Registrar and the disclosure of relevant information to other persons.

Division 3 - Investigation of Insolvent Company's Affairs

OFFICE HOLDER'S POWERS

Interpretation for this Division.

281. In this Division,

"relevant period" has the meaning specified in section 275;

"office holder", in respect of a company, means its administrator, its liquidator or its provisional liquidator;

Power to obtain information.

282. (1) Subject to subsection (2), an office holder may, by notice in writing, require a person specified in subsection (2)

(a) to provide him with such information concerning the company, including the promotion, formation, business, dealings, accounts, assets, liabilities or affairs as he reasonably requires;

(b) to attend on him at such reasonable time and at such place as may be specified in the notice; or

(c) to be examined on oath or affirmation by him, or by his legal practitioner, on any matter referred to in paragraph (a).

(2) A notice under subsection (1) may be sent to

(a) an officer or former officer of the company;

(b) a member or former member of the company;

(c) a person who was involved in the promotion or formation of the company;

(d) a person who is, or within the relevant period has been, employed by the company, including a person employed under a contract for services;

(e) a person who is, or at any time has been, a receiver, accountant or auditor of the company;

(f) a person who is or who, at any time has been, an officer of or in the employment of a company which is an officer of the company; or

(g) if the office holder is a liquidator or provisional liquidator to any person who has acted as administrator, liquidator or provisional

liquidator of the company.

(3) A person who receives a notice under subsection (1) and who, without reasonable excuse, fails to comply with the notice, commits an offence.

Examination by office holder.

283. (1) This section applies to the examination of a person under section 282(1)(c) by an office holder.

(2) The office holder, or the legal practitioner conducting the examination on his behalf, may administer an oath to, or take the affirmation of, a person to be examined.

(3) A person required to be examined is entitled to be represented by a legal practitioner.

(4) The office holder shall ensure that the examination is recorded in writing or by means of a tape recorder or other similar device.

EXAMINATION BEFORE COURT

Application for examination before Court.

284. (1) Where a company is in liquidation, an application may be made to the Court, ex parte, by the liquidator or by the Official Receiver, for an order that a person specified in subsection (2) appear before the Court for examination concerning the company, or a connected company, including the promotion, formation, business, dealings, accounts, assets, liabilities or affairs of the company or connected company.

(2) An application under subsection (1) may be made in respect of

(a) a person specified in section 282(2); or

(b) any other person who the applicant considers is capable of giving information concerning the company or a connected company.

(3) An application under subsection (1) shall state whether the applicant seeks a public or a private examination.

Order for examination.

285. (1) In this section, "examinee" means the person to be examined before the Court.

(2) On hearing an application made under subsection 284, the Court may order the examinee to appear before the Court to be examined.

(3) An order under subsection (1)

(a) shall direct the examinee to appear before the Court to be examined at a venue specified in the order;

(b) shall state whether the examination is to be a public or a private examination;

(c) may require the person concerned to produce at the examination any books, records or other documents in his possession or control that relate to the company, or a connected company, including the promotion, formation, business, dealings, accounts, assets, liabilities or affairs of the company or connected company;

(d) may provide for an alternative method of service of the order on the examinee;

(e) shall state the action that may be taken against a person if he does not appear before the Court as required by the order; and

(f) where the examination is to be a public examination, may require the examination to be advertised, specifying the method of such advertisement.

(4) Where the Court makes an order under subsection (2), the applicant shall, forthwith serve a sealed copy of the order on the examinee and, where the liquidator is not the Official Receiver

(a) if the applicant is the liquidator of the company, send a sealed copy of the notice to the Official Receiver; or

(b) if the applicant is the Official Receiver, send a sealed copy of the notice to the liquidator of the company.

(5) Where an order under subsection (2) is for the public examination of an examinee, the applicant shall give not less than 14 days notice of the examination to each creditor and member of the company.

(6) The Court may as part of an order made under this section, or at any subsequent time, make one or more of the following directions:

(a) a direction specifying the matters upon which the examinee may be examined; and

(b) a direction specifying the procedures to be followed at the examination.

Conduct of examination.

286. (1) This section applies to an examination held pursuant to an order made under section 285.

(2) An examinee shall be examined on oath and he shall answer such questions as the Court may put, or allow to be put to him.

(3) Subject to subsection (2), an examination is conducted by the applicant, or by his legal practitioner, and the person examined is entitled to be represented by a legal practitioner who may put such questions to the examinee as the Court may allow for the purpose of explaining or qualifying answers given by him.

(4) The examinee may also be examined

(a) if the applicant is the Official Receiver, by the liquidator; or

(b) if the applicant is the liquidator of the company, by the Official Receiver.

(5) At a public examination questions may, with the leave of the Court, be put to the examinee by any creditor or member of the company present at the examination or by the legal practitioner representing such creditor or member.

(6) An examination shall be recorded in writing and the examinee shall sign the record.

(7) Subject to section 287, the written record of an examination is admissible in evidence in any proceedings under this Act.

Incriminating answers and admissibility of record.

287. (1) An examinee is not excused from answering a question put to him by an office holder under section 282 or at an examination held pursuant to an order made under section 285 on the ground that the answer may incriminate him or tend to incriminate him.

(2) The record of an examination held under section 282 or pursuant to an order made under section 285 is not admissible as evidence in any criminal proceedings against the examinee except where he is charged with the offence of perjury.

Offence.

288. (1) A person who, without reasonable excuse, fails to attend an examination ordered to be held under section 285, commits an offence.

(2) Where a person without reasonable excuse fails at any time to attend an examination ordered to be held under section 285, or there are reasonable grounds for believing that a person has absconded, or is about to abscond, with a view to avoiding or delaying his examination, the Court may cause a warrant to be issued to *(AG's Chambers to complete)*

(a) for the arrest of that person; and

(b) for the seizure of any books, papers, records, money or goods in that person's possession.

(3) In such a case the Court may authorize the person arrested under the warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the Rules, until such time as the court may order.

Division 4 - Offence Provisions

Fraudulent conduct.

289. (1) Where a liquidator of a company is appointed under section 159, a person who is or has been an officer of the company is deemed to have committed an offence if, at any time during the period of 12 months preceding the commencement of the liquidation, he has

(a) made or caused to be made any gift or transfer of, or charge on, or has caused, permitted or acquiesced in the levying of any execution against the company's assets; or

(b) has concealed or removed any of the company's assets since, or within, sixty days of the date of any unsatisfied judgment or order for the payment of money obtained against the company.

(2) A person is not guilty of an offence under this section

(a) by reason of conduct constituting an offence under subsection (1)(a) which occurred more than five years before the commencement of the liquidation; or

(b) if he proves that, at the time of the conduct constituting the offence, he had no intent to defraud the company's creditors.

PART XII

BANKRUPTCY

PRELIMINARY

Interpretation.

290. In this Part,

"bankrupt" means the individual against whom a bankruptcy order is made;

"bankruptcy offence" means an offence under Part **XIII**;

"debtor" means the individual to whom an application for a bankruptcy order relates;

"prescribed minimum" means the minimum amount of the debt for which a statutory demand may be issued under section 155; and

"trustee" means the bankruptcy trustee of a bankrupt.

Application of this Part to Official Receiver.

291. Where the Official Receiver is appointed as the trustee of a bankrupt, the provisions of this Act that apply to a trustee apply to the Official Receiver, as trustee, unless otherwise provided.

BANKRUPTCY ORDER

Meaning and duration of bankruptcy order.

292. (1) A bankruptcy order is an order of the Court vesting the assets of an individual in a bankruptcy trustee appointed by the Court for the purposes of division amongst his creditors in accordance with this Part.

(2) The bankruptcy of an individual commences at the time at which the bankruptcy order is made and continues until it is terminated by the discharge of the bankrupt under section 376 or 379.

(3) Throughout the period referred to in subsection (2), the individual is referred to in this Act as "in bankruptcy".

Conditions for making of bankruptcy order.

293. (1) The Court shall not make a bankruptcy order against a debtor under this Part unless it is satisfied

(a) that on the date of the application, the debtor

(i) was ordinarily resident in the Virgin Islands,

(ii) was personally present in the Virgin Islands,

(iii) was carrying on business in the Virgin Islands, either personally or by means of an agent or manager,

(iv) was a member of a partnership carrying on business in the Virgin Islands by means of a partner or partners or of an agent or manager, or

(v) had a place of residence or a place of business in the Virgin Islands;

(b) that the debtor has or appears to have assets in the Virgin Islands; or

(c) that there is a reasonable prospect that the making of a bankruptcy order will benefit the creditors of the debtor.

(2) For the purposes of subsection (1)(a)(iii) and (iv), a debtor or a partnership is deemed to be carrying on business in the Virgin Islands if liabilities incurred in the course of a business formerly carried on in the Virgin Islands remain unpaid.

Persons who may apply for a bankruptcy order.

294. Application to the Court for a bankruptcy order in respect of a debtor may be made

(a) by the debtor himself under section 295;

(b) by a creditor of the debtor, or by one or more of his creditors jointly, under section 300; or

(c) by the supervisor of a voluntary arrangement or by a creditor of the debtor under section 301.

Application by debtor.

295. (1) The Court may make a bankruptcy order against a debtor on the application of the debtor himself if it is satisfied

(a) that the debtor is unable to pay his debts as they fall due;

(b) that the unsecured liabilities of the debtor exceed the prescribed minimum; and

(c) that, if a bankruptcy order is made, the value of the debtor's assets available for distribution to his unsecured creditors will exceed the prescribed minimum.

(2) An application for a bankruptcy order filed by a debtor under subsection (1) shall be accompanied by a statement of his assets and liabilities.

Creditor's application.

296. (1) A creditor's application for a bankruptcy order shall be made in respect of a liability or liabilities where, at the time of the application,

(a) the amount of the liability, or the aggregate amount of the liabilities, exceeds the prescribed minimum; and

(b) the liability, or each of the liabilities, is for a liquidated sum payable to the applicant creditor immediately.

(2) An application under subsection (1) may not be made in respect of a liability incurred outside the Virgin Islands unless the liability is payable by the debtor to the creditor by virtue of a judgment or award enforceable by execution in the Virgin Islands.

Substitution of applicant.

297. (1) In the circumstances specified in subsection (2), the Court may, by order, substitute as applicant in a creditor's application for a bankruptcy order, a creditor

(a) who has given notice of his intention to appear at the hearing of the application in accordance with the Rules;

(b) who would otherwise have been entitled to make such an application on the date that the original application was made; and

(c) who consents to being substituted as the applicant.

(2) The Court may make a substitution order under subsection (1) if it considers it appropriate to do so

(a) because the applicant applies to withdraw the application or consents to it being dismissed;

(b) because the Court considers that the application is not being diligently proceeded with;

(c) where the applicant is not entitled to make the application; or

(d) for any other reason.

Application by secured creditor.

298. (1) Where the applicant for a bankruptcy order is a secured creditor, he shall in his application state the full amount of the liability of the debtor to him and

(a) state that he is willing, in the event of a bankruptcy order being made, to give up his security interest for the benefit of the other creditors of the bankrupt; or

(b) give an estimate of the value of his security interest and make the application in respect of the full amount of the liability of the debtor to him less the estimated value of his security interest.

(2) In a case falling within subsection (1)(b), the secured creditor is treated as an unsecured creditor in respect of the unsecured liability of the debtor to him.

Secured creditor failing to disclose security interest.

299. (1) Subject to subsection (2), a secured creditor who fails to disclose his security interest in an application for a bankruptcy order against a debtor is, in the event that a bankruptcy order is made on the application, deemed to have given up his security interest for the benefit of the other creditors of the bankrupt.

(2) If on the application of a secured creditor the Court is satisfied that the failure of the creditor to disclose his security interest was inadvertent or due to an honest mistake, it may disapply subsection (1) subject to such terms and conditions as it considers appropriate.

(3) Where subsection (1) applies, the secured creditor concerned

(a) is not entitled to enforce his security interest against the estate of the bankrupt or to retain any proceeds from the realisation of the security interest; and

(b) shall execute such document of release as is required by the trustee or account and pay over to the trustee all proceeds from any realisation of his security interest.

(4) Where a secured creditor fails to execute a document of release as required by subsection (2)(b), the trustee may apply to the Court for an order that the trustee may execute the document on his behalf and, where the Court makes such an order, the execution of the document by the trustee takes effect as if executed by the secured creditor.

(5) A secured creditor who fails to account or pay to the trustee the proceeds from any realisation of his security interest in accordance with subsection (3)(b) commits an offence.

Hearing of creditor's application.

300. (1) Subject to subsection (2), the Court may make a bankruptcy order on an application made under section 296 if it is satisfied that the debtor is insolvent within the meaning of section 8(2) and

(a) where the debtor has failed to comply with the requirements of a statutory demand, the demand was made by the creditor making the application; or

(b) where execution or other process has been returned unsatisfied, the debt is payable to the creditor making the application.

(2) The Court shall not make a bankruptcy order under subsection (1) unless it is satisfied that

(a) the debt, or one of the debts, in respect of which the application is made is a debt which, having been payable at the date of the application, has neither been paid nor secured nor compounded for; and

(b) where the debtor does not appear at the hearing, he has been served with the application.

(3) The Court may dismiss an application made under section 296 if

(a) it is not satisfied with the proof of the liability or liabilities in respect of which the application is made;

(b) it is not satisfied with the proof of the service of the application on the debtor;

(c) it is satisfied that the debtor is able to discharge all his liabilities;

(d) is satisfied that the debtor has made an offer to secure or compound for a liability in respect of which the application is made, the acceptance of which would have required the dismissal of the application and that offer has been unreasonably refused by the creditor making the application;

(e) it is satisfied that for some other sufficient reason, a bankruptcy order ought not to be made.

(4) Nothing in section 296 or in this section limits the power of the Court, in accordance with the rules, to authorise a creditor's application to be amended by the omission of any creditor or liability.

(5) Where an application is amended under subsection (4), the Court may order that the application is proceeded with as if anything done for the purposes of this section or section 296 had been done only by or in relation to the remaining creditors or debts.

Application where individual creditors' arrangement in place.

301. (1) Where an individual creditors' arrangement has been approved under Part **II** and has not been completed or otherwise come to an end, the Court may make a bankruptcy order against a debtor on the application of the supervisor or a creditor bound by the arrangement if it is satisfied

(a) that the debtor has failed to comply with his obligations under the arrangement; or

(b) that information which was false or misleading in any material particular or which contained material omissions

(i) was contained in any statement of assets and liabilities or other document supplied by the debtor under Part **II** to any person, or

(ii) was otherwise made available by the debtor to his creditors at or in connection with a meeting summoned under that Part, or

(c) that the debtor has failed to do all such things as may for the purposes of the voluntary arrangement have been reasonably required of him by the supervisor of the arrangement.

(2) Where a bankruptcy order is made on an application under subsection (1), any remuneration of the supervisor is a first charge on the bankrupt's estate.

Consolidation of applications.

302. Where two or more applications for bankruptcy orders are presented against the same debtor, the Court may consolidate the proceedings or any of them on such terms as it considers fit.

Withdrawal of application.

303. An application for a bankruptcy order may not be withdrawn except with the leave of the Court.

Court's powers on hearing of application for bankruptcy order.

304. On the hearing of an application for a bankruptcy order under section 295, section 296 or section 301, the Court may

(a) make a bankruptcy order;

(b) if it appears appropriate to do so on the grounds that there has been a contravention of the Rules or for any other reason, dismiss the application or stay proceedings on the application on such terms and conditions as it considers fit;

(c) adjourn the hearing conditionally or unconditionally; or

(d) make any interim order or other order that it considers fit.

Appointment of bankruptcy trustee.

305. Where the Court makes a bankruptcy order under section 295, 300 or 301, it shall appoint either the Official Receiver or an eligible insolvency practitioner to be the bankruptcy trustee of the bankrupt.

Period within which application shall be determined.

306. (1) Subject to subsection (2), an application for a bankruptcy order shall be determined within three months after it is filed.

(2) The Court may, upon such conditions as it considers fit, extend the period referred to in subsection (1) for a period of, or where it grants more than one extension for an aggregate period not exceeding, three months if

(a) it is satisfied that special circumstances justify the extension; and

(b) the order extending the period is made before the expiry of that period or, if a previous order has been made under this subsection, that period as extended.

(3) If an application is not determined within the period referred to in subsection (1) or within that period as extended, it is deemed to have been dismissed.

INTERIM RELIEF

Protection of assets after application for bankruptcy order.

307. (1) Where an application for a bankruptcy order has been filed in respect of a debtor but not yet determined or withdrawn, the Court may, if it considers it necessary for the protection of the debtor's assets, make an order

(a) directing the Official Receiver or an eligible insolvency practitioner to take control of

(i) the debtor's assets, or any part of them, and

(ii) such books or other documents of the debtor as may be specified in the order; and

(b) make any other order in relation to the debtor's assets.

(2) An application for an order under subsection (1) may be made by

(a) the applicant for the bankruptcy order;

(b) the debtor himself; or

(c) any creditor of the debtor.

(3) An order under subsection (1) may be made on such terms as it considers fit and may, as a condition precedent, require the applicant to deposit at Court such sum as the Court considers reasonable to cover the remuneration of the Official Receiver or the insolvency practitioner appointed.

(4) An order under subsection (1) remains in effect until the earlier of

(a) the discharge of the order by the Court of its own motion or on the application of

(i) the Official Receiver or eligible insolvency practitioner appointed under subsection (1)(a), or

(ii) any person specified in subsection (2); or

(b) the determination or withdrawal of the application for a bankruptcy order;

whereupon the appointment of the Official Receiver or insolvency practitioner is terminated.

(5) On the order ceasing to have effect, the Court may give such directions or make such order with respect to the accounts of the administration of the appointee, or to any other matter, as it considers appropriate.

Effect of order under section 307.

308. Whilst an order under section 307(1) is in effect, unless the leave of the Court has been obtained

(a) no steps may be taken to enforce any security interest over the debtor's assets;

(b) no steps may be taken to repossess assets that are being used or occupied by or are in the possession of the debtor, including

(i) goods supplied under a hire purchase, conditional sale or chattel leasing agreement, and

(ii) goods supplied subject to a retention of title agreement; and

(c) no proceedings, execution or other legal process may be commenced or continued or distress levied against the debtor or his assets.

Remuneration of person appointed under section 307.

309. (1) The Official Receiver or the insolvency practitioner directed to take control of a debtor's assets under section 307(1) is entitled to be paid such remuneration as the Court may order.

(2) Subject to subsections (3) and (4), the remuneration ordered to be paid under subsection (1) is payable,

(a) where a bankruptcy order is not made, out of the assets of the debtor;

(b) where a bankruptcy order is made out of the bankrupt's estate in accordance with the prescribed priority.

(3) If a bankruptcy order is not made, the Court may order the applicant for the order under section 307 to pay or contribute to the remuneration of the Official Receiver or insolvency practitioner directed to take control of the assets under section 307(1) if it is satisfied that the applicant

(a) misled the Court when making the application; or

(b) acted unreasonably in making the application.

(4) If the assets of the company are not sufficient to pay the remuneration ordered to be paid by the Court under subsection (1), the Court may order the shortfall, or part of the shortfall, to be paid by the applicant for the order under section 307.

(5) Unless the Court otherwise orders, where subsection (2)(a) applies, the Official Receiver, or the insolvency practitioner appointed under section 307, may retain out of the debtor's assets such sums or assets as are, or may be, required for meeting his remuneration.

Examination.

310. The Official Receiver or the insolvency practitioner directed to take control of a debtor's assets under section 307(1) may apply for an order to examine the debtor under section 369, and sections 369 to 373 apply as if

(a) references to the Official Receiver or the trustee were to the person directed to take control of the debtor's assets; and

(b) references to the bankrupt and to his estate were to the debtor and his assets.

EFFECT OF BANKRUPTCY

Effect of bankruptcy order.

311. (1) On the making of a bankruptcy order, the assets comprised in the bankrupt's estate

(a) vest in his trustee without any conveyance, assignment or transfer; and

(b) become divisible among his creditors in accordance with this Act.

Power to stay or restrain proceedings.

312. (1) An order under subsection (2) or (3) may be made

(a) after an application for a bankruptcy order has been filed against an individual but not yet determined; or

(b) whilst an individual is an undischarged bankrupt.

(2) At any time during either period specified in subsection (1)

(a) the Court may stay any action, proceeding, execution, distress or other legal process against the person or the assets of the individual concerned; and

(b) any court in which proceedings are pending against any individual may, either stay the proceedings or allow them to continue on such terms as it thinks fit.

(3) After the making of a bankruptcy order no person who is a creditor of the bankrupt in respect of a debt that may be claimed in the bankruptcy shall

(a) have any remedy against the assets or person of the bankrupt in respect of that debt; or

(b) before the discharge of the bankrupt, commence any action or other legal proceedings against the bankrupt except with the leave of the court and in such terms as the court may impose.

(4) This section

(a) does not affect the right of a secured creditor to enforce his security; and

(b) is subject to section 351 (enforcement procedures) and section 352 (limited right to distress).

BANKRUPT'S ESTATE

Definition of bankrupt's estate.

313. (1) Subject to subsection (2), the bankrupt's estate comprises

(a) all assets belonging to or vested in the bankrupt at the date of the bankruptcy order;

(b) assets claimed by the trustee under section 318 or 319; and

(c) the capacity to exercise and to take proceedings for exercising all such powers in or over or in respect of assets as might have been exercised by the bankrupt for his own benefit at the date of the bankruptcy order.

(2) Subsection (1) does not apply to

(a) assets held by the bankrupt on trust for any other person;

(b) such tools, books, vehicles and other items of equipment as are necessary to the bankrupt for use personally by him in his employment or business;

(c) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his family; and

(d) any asset of the bankrupt which is excluded from his estate under any other enactment.

(3) The assets comprised in a bankrupt's estate are divisible amongst his creditors in accordance with this Part.

(4) Assets comprised in a bankrupt's estate are subject to the rights of any person other than the bankrupt in relation to those assets, whether as a secured creditor of the bankrupt or otherwise, but disregarding

(a) any rights given up under section 298(1)(a); and

(b) any rights which have been otherwise given up in accordance with the rules.

(5) Unless the context otherwise requires, a reference in this Part to the assets of the bankrupt means the assets comprised in the bankrupt's estate.

Acquisition by trustee of control of bankrupt's estate.

314. (1) A trustee shall forthwith after the making of a bankruptcy order take possession of

(a) all documents which relate to the bankrupt's estate or affairs and which belong to him or are under his control, including documents which would be privileged from disclosure in any proceedings; and

(b) all assets of the bankrupt that are capable of manual delivery.

(2) A trustee is, in relation to and for the purposes of acquiring or retaining possession of the assets of the bankrupt, in the same position as a receiver of the assets appointed by the Court, and the Court may, on his application, enforce the acquisition or retention accordingly.

(3) Where any part of the bankrupt's estate consists of stock, shares or shares in a ship or any other assets transferable in the books of a company, office or person, the trustee may exercise the right to transfer the assets to the same extent as the bankrupt might have exercised it if he had not become bankrupt.

(4) Where any part of the estate consists of things in action, they are deemed to have been assigned to the trustee.

(5) Notice of the deemed assignment of things in action under subsection (3) need not be given except in so far as it is necessary, in a case where the deemed assignment is from the bankrupt himself, for protecting the priority of the trustee.

Goods subject to pledge etc.

315. (1) Where any goods of a bankrupt are held by any person by way of pledge, pawn or other security, the trustee of the bankrupt may, after giving notice of his intention to do so, inspect the goods.

(2) Where a person receives a notice under subsection (1), he is not entitled to realise his security unless he has given the trustee a reasonable opportunity to inspect the goods and, if the goods are comprised in the estate of the bankrupt, to exercise the bankrupt's right of redemption.

Duties of bankrupt in relation to his assets and affairs.

316. (1) Where a bankruptcy order has been made, the bankrupt shall

(a) make discovery of and deliver to his trustee all the assets comprised in his estate that are in his possession or control; and

(b) deliver to his trustee all documents in his possession or control which relate to his assets or affairs, including any documents which, in any proceedings, would be privileged from disclosure.

(2) Where the bankrupt is unable to deliver any assets comprised in his estate to his trustee, the bankrupt shall do everything reasonably required by his trustee to protect those assets.

(3) The bankrupt shall

(a) give his trustee such information concerning his assets and affairs;

(b) attend on him at such times; and

(c) do all such other things;

as his trustee may reasonably require for the purposes of carrying out his functions under this Act.

(4) If at any time after the time of the bankruptcy order any assets are acquired by, or devolve on, the bankrupt or there is an increase in the bankrupt's income, he shall, within the prescribed time period, give the trustee notice of the assets or of the increased income.

(5) Subsection (3) applies to a bankrupt after his discharge.

(6) If the bankrupt without reasonable excuse fails to comply with any obligation imposed by this section, he commits an offence.

Delivery up by other persons.

317. (1) Any person who holds assets to the account of, or for, the bankrupt shall pay or deliver to the trustee the assets in his possession or under his control unless he is, by law, entitled to retain the assets against the bankrupt or the trustee.

(2) Any person who, without reasonable excuse, fails to comply with any obligation imposed by this section, commits an offence.

After-acquired assets.

318. (1) Subject to sections 313(2) and 321, the trustee may by notice in writing served on the bankrupt claim for the bankrupt's estate any assets which have been acquired by, or have devolved upon, the bankrupt after the date of the bankruptcy order but prior to the date of his discharge.

(2) Subject to subsection (3), on the service of a notice under subsection (1) on the bankrupt, the assets to which the notice relate vest in the trustee as part of the bankrupt's estate and the trustee's title to those assets relates back to the time at which the assets were acquired by, or devolved upon, the bankrupt.

(3) Where, whether before or after service of a notice under this section

(a) a person acquires assets in good faith, for value and without notice of the bankruptcy; or

(b) a banker enters into a transaction in good faith and without such notice;

the trustee is not in respect of those assets or that transaction entitled by virtue of this section to any remedy against that person or banker, or any person whose title to any assets derives from that person or banker.

(4) For the purposes of this section, a reference to "assets" does not include any asset which, as part of the bankrupt's income, may be the subject of an income payments order under section 322.

Vesting in trustee of certain items of excess value.

319. (1) Subject to section 321, where

(a) assets are excluded from the bankrupt's estate by virtue of section 313(2)(b) or (c); and

(b) it appears to the trustee that the realisable value of those assets or any of them exceeds the cost of a reasonable replacement;

the trustee may, by notice in writing served on the bankrupt, claim the asset or assets for the bankrupt's estate.

(2) On the service on the bankrupt of a notice under subsection (1), the assets to which the notice relates vest in the trustee as part of the bankrupt's estate; and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee's title to those assets has relation back to the date of the bankruptcy order.

(3) The trustee shall apply funds comprised in the estate to the purchase by or on behalf of the bankrupt of a reasonable replacement for any assets vested in him under this section and the duty imposed by this subsection has priority over the obligation of the trustee to distribute the estate.

(4) For the purposes of this section, an asset is a reasonable replacement for another asset if it is reasonably adequate for meeting the needs met by the other asset.

Vesting in trustee of certain tenancies.

320. Upon the service on the bankrupt by the trustee of a notice in writing under this section, any tenancy to which the notice relates vests in the trustee as part of the bankrupt's estate and, except against a purchaser in good faith, for value and without notice of the bankruptcy, the trustee's title to that tenancy has relation back to the commencement of the bankruptcy.

Time limit for notice under sections 318, 319 or 320.

321. (1) Except with the leave of the Court, a notice may not be served

(a) under section 318, after the end of the period of 42 days beginning with the day on which it first came to the knowledge of the trustee that the assets in question had been acquired by, or had devolved upon, the bankrupt;

(b) under sections 319 or 320, after the end of the period of 42 days beginning with the day on which the assets in question first came to the knowledge of the trustee.

(2) For the purposes of this section,

(a) anything which comes to the knowledge of the trustee is deemed in relation to any successor of his as trustee to have come to the knowledge of the successor at the same time; and

(b) anything which comes to the knowledge of a person before he is the trustee, otherwise than under paragraph (a), is deemed to come to his knowledge on his appointment taking effect or, in the case of the Official Receiver, on his becoming trustee.

Income payments orders.

322. (1) The Court may, on the application of the trustee, make an income payments order claiming for the bankrupt's estate so much of the income of the bankrupt during the period for which the order is in force as may be specified in the order.

(2) The Court shall not make an income payments order the effect of which would be to reduce the income of the bankrupt below what appears to the Court to be necessary for meeting the reasonable domestic needs of the bankrupt and his family.

(3) An income payments order shall, in respect of any payments of income to which it is to apply, either

(a) require the bankrupt to pay the trustee an amount equal to so much of that payment as is claimed by the order; or

(b) require the person making the payment to pay so much of it as is so claimed to the trustee, instead of to the bankrupt.

(4) Where the court makes an income payments order it may, if it thinks fit, discharge or vary any attachment of earnings order that is for the time being in force to secure payments by the bankrupt.

(5) Sums received by the trustee under an income payments order form part of the bankrupt's estate.

(6) Subject to section 379(1)(c)(i), an income payments order shall not be made after the discharge of the bankrupt, and if made before, shall not have effect after his discharge.

(7) Subject to subsection (8), for the purposes of this section, the income of the bankrupt comprises every payment in the nature of income which is from time to time made to him or to which he from time to time becomes entitled, including any payment in respect of the carrying on of any business or in respect of any office or employment and any payment under a pension scheme.

BANKRUPTCY TRUSTEE

Bankruptcy trustee officer of Court.

323. In performing his functions and undertaking his duties under this Act, a bankruptcy trustee acts as an officer of the Court.

General duties of trustee.

324. (1) The principal duties of a trustee are

(a) to take possession of, protect and realise the bankrupt's estate; and

(b) to distribute the bankrupt's estate in accordance with this Act.

(2) Where the trustee is not the Official Receiver, he has a duty

(a) to provide the Official Receiver with such information;

(b) to produce to the Official Receiver, and permit inspection by the Official Receiver of, such documents; and

(c) to give the Official Receiver such other assistance;

as the Official Receiver may reasonably require for the purpose of enabling him to carry out his functions in relation to the bankruptcy.

(3) A trustee shall, subject to this Act and the Rules, use his own discretion in undertaking his duties.

(4) A trustee also has the other duties imposed by this Act and the Rules and such duties as may be imposed by the Court.

Powers of trustee.

325. (1) A trustee may,

(a) with the permission of the creditors' committee or court, exercise any of the powers specified in Part 1 of Schedule **4**; and

(b) without that permission, exercise any of the general powers specified in Part 2 of Schedule **4**.

(2) With the permission of the creditors' committee or the court, the trustee may appoint the bankrupt

(a) to superintend the management of his estate or any part of it;

(b) to carry on his business, if any, for the benefit of his creditors; or

(c) in any other respect to assist in administering the estate in such manner and on such terms as the trustee may direct.

(3) A permission given for the purposes of subsection (1)(a) or (2) shall not be a general permission but shall relate to a particular proposed exercise of the power in question and a person dealing with the trustee in good faith and for value is not to be concerned to enquire whether any permission required in either case has been given.

(4) Subject to subsection (5), where the trustee has done anything without the permission required by subsection (1)(a) or (2), the Court or the creditors' committee may, for the purpose of enabling him to meet his expenses out of the bankrupt's estate, ratify what the trustee has done.

(5) The creditors' committee shall not ratify the trustee's actions under subsection (4) unless it is satisfied that the trustee acted in a case of urgency and sought the committee's ratification without undue delay.

(6) Part 3 of Schedule **4** has effect with respect to the things which the trustee is able to do for the purposes of, or in connection with, the exercise of any of his powers under this Part.

(7) Where the trustee, not being the Official Receiver, in exercise of the powers conferred on him by any provision in this Part

(a) disposes of any asset comprised in the bankrupt's estate to an associate of the bankrupt; or

(b) employs a solicitor;

he shall give notice to any creditors' committee of that exercise of his powers.

(8) Nothing in this Act is to be construed as restricting the capacity of the trustee to exercise any of his powers outside the Virgin Islands.

Notice of appointment.

326. (1) A trustee shall, within 14 days of the date of his appointment,

(a) advertise his appointment

(i) in the *Gazette*; and

(ii) in a newspaper circulating in the Virgin Islands;

(b) serve notice of his appointment on the bankrupt;

(c) if he has been appointed in respect of an individual who is a regulated person, serve notice of his appointment on the Commission;

(d) send a notice of his appointment to every creditor of the bankrupt; and

(e) unless the Official Receiver is the trustee, file notice of his appointment with the Official Receiver.

(2) An advertisement under subsection (1)(a) and a notice under subsection (1)(d) shall set out the powers of the creditors under this Part to require him to call a meeting of creditors.

(3) A trustee who contravenes subsection (1) or (2) commits an offence.

Appointment of trustee in place of Official Receiver.

327. (1) When the Official Receiver is the trustee of a bankrupt's estate the Court may, on his application, appoint an eligible insolvency practitioner to act as trustee in his place.

(2) An application may be made under subsection (1) notwithstanding that the Court has refused to make an appointment on a previous application by the Official Receiver.

Removal of trustee.

328. (1) The Court may, on application by a person specified in subsection (2) or on its own motion, remove a trustee from office if

(a) the trustee

(i) is not eligible to act as an insolvency practitioner in relation to the bankrupt;

(ii) breaches any duty or obligation imposed on him by or owed by him under this Act, the Rules or any other enactment or law in the Virgin Islands, or

(iii) fails to comply with any direction or order of the Court made in relation to the bankruptcy; or

(b) the Court is satisfied that

(i) the trustee's conduct of the bankruptcy is below the standard that may be expected of a reasonably competent trustee,

(ii) the trustee has an interest that conflicts with his role as trustee, or

(iii) that for some other reason he should be removed as trustee.

(2) An application to the Court to remove a trustee from office may be made by

(a) the creditors' committee, if any;

(b) a creditor of the bankrupt; or

(c) the Official Receiver.

(3) Where the Court removes a trustee from office under this section,

(a) if, following his removal, there is at least one trustee remaining in office, the Court may appoint another trustee in his place; or

(b) if the trustee removed was the sole trustee of the company, the Court shall appoint another trustee in his place.

(4) On the hearing of an application under this section, the Court may make any interim or other order it considers fit.

Resignation of trustee.

329. (1) A trustee

(a) shall resign if he is no longer eligible to act as an insolvency practitioner in relation to the bankrupt; but

(b) otherwise may only resign in accordance with this section.

(2) Where a trustee resigns under subsection (1)(a), he shall send a notice of his resignation to the Court, to the creditors of the bankrupt and to the Official Receiver.

(3) A trustee may resign in accordance with subsection (5)

(a) if he intends to cease to be in practice as an insolvency practitioner;

(b) if there is some conflict of interest or change of personal circumstances that precludes or makes impracticable the further discharge by him of his duties; or

(c) on the grounds of ill health.

(4) Notwithstanding subsection (3), where joint trustees are appointed, one or more of the joint liquidators may resign in accordance with subsection (5) if

(a) all the joint trustees are of the opinion that it is no longer necessary or expedient for the resigning trustee or trustees to continue in office; and

(b) at least one of them will remain in office.

(5) Where a trustee intends to resign on one of the grounds referred to in subsection (3) or under subsection (4), he shall call a meeting of creditors for the purpose of accepting his resignation as trustee.

(6) If, at the meeting called under subsection (5), the creditors resolve to accept the resignation of the trustee, he ceases to hold office as trustee with effect from the date of the meeting.

(7) This section does not apply to the Official Receiver when acting as the trustee of a bankrupt.

Vacancy in office of trustee.

330. (1) Where a trustee

(a) dies;

(b) is removed under section 328; or

(c) resigns under section 329;

the Court may, on the application of a person specified in subsection (2) or on its own motion, fill the vacancy.

(2) An application under subsection (1) may be made

(a) by any continuing trustee;

(b) by the creditors' committee, if any; or

(c) by the Official Receiver.

(3) Where there is a vacancy in the office of trustee, for whatever reason, the Official Receiver is trustee until the vacancy is filled.

Remuneration of trustee.

331. The remuneration payable to a trustee shall be fixed in accordance with Part **XVI**, Division 2.

General control of trustee by the Court.

332. (1) A person aggrieved by an act, omission or decision of a trustee may apply to the Court and the Court may confirm, reverse or modify the act, omission or decision of the trustee.

(2) A trustee may apply to the Court for directions in relation to any particular matter arising under the bankruptcy.

ADMINISTRATION BY TRUSTEE

Meetings of creditors.

333. (1) A trustee may at any time call a meeting of the creditors of the bankrupt

(a) by sending a notice of the meeting by post to every creditor not less than seven days before the date upon which the meeting is to be held; and

(b) by advertising the meeting.

(2) Notwithstanding subsection (1), the trustee shall call a meeting of creditors if

(a) a meeting is requisitioned by the creditors of the bankrupt in accordance with subsection (3); or

(b) he is directed to do so by the Court.

(3) A creditors' meeting may be requisitioned in accordance with the Rules by 25 per cent in value of the creditors of the bankrupt.

CLAIMS AND DISTRIBUTION OF ESTATE

Distribution of bankrupt's estate.

334. (1) The bankrupt's estate shall be applied

(a) in paying, in priority to all other claims, the costs and expenses properly incurred in the bankruptcy in accordance with the prescribed priority;

(b) after payment of the costs and expenses of the bankruptcy, in paying the preferential claims admitted by the trustee in accordance with the provisions for the payment of preferential claims prescribed;

(c) after payment of the preferential claims, in paying all other claims admitted by the trustee; and

(d) after paying all admitted claims, in paying any interest payable under section 342.

(2) The claims referred to in subsection (1)(c) rank equally and, if the bankrupt's estate is insufficient to meet them all in full, they shall be paid rateably.

Debts to spouse.

335. Any claims in respect of credit provided by a person who was the bankrupt's spouse at the time of the bankruptcy order, whether or not he or she was the bankrupt's spouse at the time the credit was provided,

(a) rank in priority after the debts and interest specified in section 334(1); and

(b) are payable with interest at the rate specified in section 334(1)(d) in respect of the period during which they have been outstanding since the date of the bankruptcy order;

and the interest payable under paragraph (b) has the same priority as the debts on which it is payable.

Claims by unsecured creditors.

336. (1) An unsecured creditor may make a claim in the bankruptcy of an individual by submitting to the trustee a written claim, signed by him or on his behalf.

(2) The trustee may require an unsecured creditor who intends to submit, or who has submitted, a claim under subsection (1)

(a) to verify his claim by affidavit;

(b) to provide further particulars of his claim; or

(c) to provide him with documentary or other evidence to substantiate the claim.

(3) As soon as reasonably practicable after receiving a claim under subsection (1) from a creditor who has complied with any requirements that the trustee may have imposed under subsection (2), the trustee shall either admit or reject the claim in whole or in part.

(4) If the trustee rejects the claim, whether in whole or in part, he shall as soon as practicable provide the creditor with a notice of rejection in which the reasons for the rejection of the claim shall be specified.

(5) Unless the Court otherwise orders, a creditor shall bear the costs of making a claim under this section, including the costs of complying with any requirements imposed by the trustee under subsection (2).

(6) The trustee shall not admit a claim in the bankruptcy unless it has been made in accordance with this section.

(7) A person who makes or authorizes the making of a claim under this section knowing that

(a) the claim is false or misleading in a material matter; or

(b) a material fact or matter has been omitted from the claim;

commits an offence.

Variation, withdrawal and expunging of claims.

337. (1) A claim made under section 336 may

(a) be amended or withdrawn by the creditor at any time before the trustee has admitted it; and

(b) be amended or withdrawn by agreement between the creditor and the trustee at any time after the trustee has admitted it.

(2) The Court, on the application of the trustee or, where the trustee declines to make application under this subsection, a creditor, may expunge or amend an admitted claim if it is satisfied that the claim should not have been admitted or should be reduced.

Claims by secured creditors.

338. (1) A secured creditor may

(a) value the assets subject to the security interest and claim in the bankruptcy as an unsecured creditor for the balance of his debt; or

(b) surrender his security interest to the trustee for the general benefit of creditors and claim in the bankruptcy as an unsecured creditor for the whole of his debt;

but he is not obliged to do either.

(2) A secured creditor may, at any time apply to the trustee to amend the value that he placed on the security interest in his claim.

(3) If, on receiving an application under subsection (2), the trustee is satisfied that

(a) the value placed on the security interest was an estimate made in good faith on a mistaken basis; or

(b) the value of the security interest has subsequently changed;

he may permit the secured creditor to amend the value that he places on the security interest.

(4) If the trustee is dissatisfied with the value placed on a security interest by a secured creditor, whether under subsection (1)(a) or on an amendment under subsection (3), he may require the assets comprised in the security interest to be offered for sale.

(5) A sale under subsection (4) is to be on such terms and conditions as are agreed by the secured creditor and the trustee or, in default, as the Court determines.

(6) If assets are offered for sale by public auction, both the secured creditor and the trustee are entitled to bid for and purchase them.

Redemption of security interest by trustee.

339. (1) Where a secured creditor has claimed in a bankruptcy under section 338(1)(a), the trustee may at any time give notice to the creditor that he proposes at the expiration of 28 days from the date of the notice to redeem the security interest at the value placed on it by the creditor.

(2) A secured creditor who receives a notice under subsection (1) may, within 21 days of the date of the notice, apply to the trustee to revise the value that he places on the security interest in accordance with section 338(2).

(3) At the expiration of 28 days from the date of the notice under subsection (1), the trustee may redeem the security interest at the value placed on it by the creditor unless

(a) the secured creditor has applied to the trustee to amend the value that he places on the security interest and that application has not been determined; or

(b) the secured creditor has appealed to the Court against the refusal of the trustee to permit him to amend the value that he places on his security interest, and that appeal has not been determined.

(4) Where, subsequent to a notice to redeem issued under subsection (1), the value placed by the secured creditor on his security interest is amended, whether with the consent of the trustee or on appeal to the Court, the trustee may only redeem the security interest at the new value.

(5) A secured creditor may, by serving a notice to elect on the trustee, require him to elect whether or not to exercise his power to redeem under this section.

(6) Where a notice to elect is served on a trustee under subsection (5), he is not entitled to redeem the security interest unless he does so within six months of the date of service of the notice on him or within such extended period as the Court may allow.

Realization of security interest by secured creditor.

340. (1) Where a secured creditor realises his security interest and there is a surplus remaining from the net amount realised after satisfaction of the debt secured, he shall account to the trustee for the surplus, after making any proper payments to the holder of any other security interest over the assets subject to that charge.

(2) Where a secured creditor realises his security interest and the net amount realised is not sufficient to satisfy the debt secured

(a) if the creditor has previously valued his security interest and claimed in the bankruptcy for the balance under subsection (1)(a), the net amount realised is substituted for the value previously placed by the creditor on the security interest; or

(b) in any other case, the creditor may claim in the bankruptcy as an unsecured creditor for the balance of his debt.

(3) For the purposes of this section, the secured debt (liability) includes contractual interest payable to the secured creditor on the debt up to the time of its satisfaction.

Surrender for non-disclosure.

341. (1) Subject to subsection (2), if a secured creditor omits to disclose his security interest when submitting a claim in a bankruptcy, he shall surrender his security interest for the general benefit of the creditors.

(2) The Court may, on application by a secured creditor who is required to surrender his security interest under subsection (1), if it is satisfied that the omission was inadvertent or the result of an honest mistake by order direct

(a) that he is not required to surrender his security interest; and

(b) that he values his security interest and amends his claim accordingly.

Interest after commencement of bankruptcy.

342. (1) Interest is payable on any claim in a bankruptcy in respect of the period after the commencement of the bankruptcy in accordance with this section.

(2) Any surplus remaining after the payment of all claims in the bankruptcy shall, before being applied for any other purpose, be applied in paying interest on those claims in respect of the periods during which they have been unpaid since the commencement of the bankruptcy.

(3) All interest payable under this section ranks equally, whether or not the claims on which it is payable rank equally.

(4) The rate of interest payable under this section is the greater of

(a) the court rate; and

(b) the rate that would be applicable to the claim if a bankruptcy order had not been made.

Distribution by means of dividend.

343. (1) Whenever the trustee has sufficient funds in hand for the purpose, he shall, subject to the retention of such sums as may be necessary for his remuneration, declare and distribute dividends among the creditors in respect of the claims that he has admitted.

(2) The trustee shall give notice of his intention to declare and distribute a dividend.

(3) Where the trustee has declared a dividend, he shall give notice of the dividend and of how it is proposed to distribute it.

(4) A notice given under subsection (3) shall contain the prescribed particulars of the bankrupt's estate.

(5) In the calculation and distribution of a dividend, the trustee shall make provision

(a) for any admissible debts which appear to him to be due to persons who, by reason of the distance of their place of residence, may not have had sufficient time to submit their claims;

(b) for any admissible debts which are the subject of claims which have not yet been determined; and

(c) for disputed claims.

Claims by unsatisfied creditors.

344. (1) A creditor who has not submitted his claim before the declaration of any dividend is not entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his claim was submitted, but

(a) when that claim has been admitted, he is entitled to be paid out of any money for the time being available for the payment of any further dividend, any dividend or dividends which he has failed to receive; and

(b) any dividend or dividends payable under paragraph (a) shall be paid before that money is applied to the payment of any such further dividend.

Distribution of assets in specie.

345. (1) Without prejudice to the provisions in this Act concerning disclaimer, the trustee may, with the permission of the creditors' committee or the Court, divide in their existing form amongst the bankrupt's creditors, according to their estimated value, any assets which from their peculiar nature or other special circumstances cannot be readily or advantageously sold.

(2) A permission given for the purposes of subsection (1) shall not be a general permission but shall relate to a particular proposed exercise of the power in question and a person dealing with the trustee in good faith and for value is not to be concerned to enquire whether any permission required by subsection (1) has been given.

(3) Subject to subsection (4), where the trustee has done anything without the permission required by subsection (1), the Court or the creditors' committee may, for the purpose of enabling him to meet his expenses out of the bankrupt's estate, ratify what the trustee has done.

(4) The committee may only ratify the trustee's actions under subsection (3) if it is satisfied that the trustee acted in a case of urgency and that he has sought its ratification without undue delay.

Final distribution.

346. (1) When the trustee has realised all the bankrupt's estate or so much of it as can, in the trustee's opinion, be realised without needlessly protracting the bankruptcy, he shall give notice in the prescribed manner either

(a) of his intention to declare a final dividend; or

(b) that no dividend, or further dividend, will be declared.

(2) A notice given under subsection (1) shall require claims against the bankrupt's estate to be established by a date specified in the notice (referred to in this section as "the final date").

(3) The Court may, on the application of any person, postpone the final date.

(4) After the final date, the trustee shall

(a) defray any outstanding expenses of the bankruptcy out of the bankrupt's estate; and

(b) if he intends to declare a final dividend, declare and distribute that dividend without regard to the claim of any person in respect of a claim not already admitted in the bankruptcy.

No action for dividend.

347. No action lies against the trustee for a dividend, but if the trustee refuses to pay a dividend the Court may, if it thinks fit, order him to pay it and also to pay out of his own money

(a) interest on the dividend at the court rate from the time it was withheld; and

(b) the costs of the application.

Right of bankrupt to surplus.

348. (1) Subject to subsection (2), the bankrupt is entitled to any surplus remaining after payment in full of the costs, expenses and claims referred to in section 334(1).

(2) The Court may make an order directing the trustee not to distribute the surplus or any part of it to the bankrupt if, on the application of the Attorney General, it is satisfied that

(a) proceedings under any enactment dealing with the confiscation of the proceeds of crime are pending; and

(b) the assets of the bankrupt may become subject to a confiscation order or to be required to meet some other order made in those proceedings.

(3) The Court may, on the application of the Attorney General or the bankrupt vary or revoke an order made under subsection (2).

Final Meeting.

349. (1) Where it appears to the trustee that the administration of the bankrupt's estate in accordance with this Act is for practical purposes complete and the trustee is not the Official Receiver, he shall call a final general meeting of the bankrupt's creditors to receive the trustee's report of his administration of the bankrupt's estate.

(2) The trustee may, if he thinks fit, call the final general meeting at the same time as giving notice under section 346 but, if called for an earlier date, the meeting shall be adjourned (and, if necessary, further adjourned) until a date on which the trustee is able to report to the meeting that the administration of the bankrupt's estate is for practical purposes complete.

(3) In the administration of the estate it is the trustee's duty to retain sufficient sums from the estate to cover the expenses of summoning and holding the meeting required by this section.

PRIOR TRANSACTIONS

Contracts to which bankrupt is a party.

350. (1) Where a contract has been made with a person who subsequently becomes bankrupt, the Court may, on the application of any other party to the contract, make an order discharging obligations under the contract on such terms as to payment by the applicant or the bankrupt of damages for non-performance or otherwise as appear to the Court to be equitable.

(2) Any damages payable by the bankrupt by virtue of an order of the Court under this section are provable as a bankruptcy debt.

(3) Where an undischarged bankrupt is a contractor in respect of any contract jointly with any person, that person may sue or be sued in respect of the contract without the joinder of the bankrupt.

Enforcements procedures.

351. (1) Subject to section 312 and to this section, where the creditor of a bankrupt has, before the commencement of that bankruptcy

(a) issued execution against the goods or land of the bankrupt; or

(b) attached a debt due to the bankrupt from another person;

the creditor is not entitled, as against the bankruptcy trustee, to retain the benefit of the execution or attachment, or any sums paid to avoid it, unless the execution or attachment was completed, or the sums were paid, before the commencement of the bankruptcy.

(2) Where any goods of a person have been taken in execution, then, if before the completion of the execution notice is given to the officer charged with the execution that that person has been adjudged bankrupt,

(a) that officer shall on request deliver the goods and any money seized or recovered in part satisfaction of the execution to the trustee; but

(b) the costs of the execution are a first charge on the goods or money so delivered and the trustee may sell the goods or a sufficient part of them for the purpose of satisfying the charge.

(3) Subject to subsection (6) below, where

(a) under an execution in respect of a judgment for a sum exceeding such sum as may be prescribed for the purposes of this subsection, the goods of any person are sold or money is paid in order to avoid a sale; and

(b) before the end of the period of 14 days beginning with the day of the sale or payment the officer charged with the execution is given notice that a bankruptcy application has been filed in relation to that person; and

(c) a bankruptcy order is or has been made on that application;

the balance of the proceeds of sale or money paid, after deducting the costs of execution, shall (in priority to the claim of the execution creditor) be comprised in the bankrupt's estate.

(4) Accordingly, in the case of an execution in respect of a judgment for a sum exceeding the sum prescribed for the purposes of subsection (3), the officer charged with the execution shall

(a) not dispose of the balance mentioned in subsection (3) at any time within the period of 14 days so mentioned or while there is pending a bankruptcy application of which he has been given notice under that subsection; and

(b) pay that balance, where by virtue of that subsection it is comprised in the bankrupt's estate, to the trustee.

(5) For the purposes of this section

(a) an execution against goods is completed by seizure and sale;

(b) an execution against land is completed by seizure or by the appointment of a receiver;

(c) an attachment of a debt is completed by the receipt of the debt.

(6) The rights conferred by subsections (1) to (3) on the trustee may, to such extent and on such terms as it thinks fit, be set aside by the court in favour of the creditor who has issued the execution or attached the debt.

(7) Nothing in this section entitles the trustee to claim goods from a person who has acquired them in good faith under a sale by an officer charged with an execution.

(8) Neither subsection (2) nor subsection (3) applies in relation to any execution against assets which have been acquired by or have devolved upon the bankrupt since the commencement of the bankruptcy unless, at the time the execution is issued or before it is completed,

(a) the assets have been or are claimed for the bankrupt's estate under section 318 (after-acquired assets); and

(b) a copy of the notice given under that section has been or is served on the officer charged with the execution.

Distress, etc.

352. (1) The right of any landlord or other person to whom rent is payable to distrain upon the goods and effects of an undischarged bankrupt for rent due to him from the bankrupt is available (subject to subsection (5) below) against goods and effects comprised in the bankrupt's estate, but only for 6 months' rent accrued due before the commencement of the bankruptcy.

(2) Where a landlord or other person to whom rent is payable has distrained for rent upon the goods and effects of an individual to whom a bankruptcy application relates and a bankruptcy order is subsequently made on that application, any amount recovered by way of that distress which

(a) is in excess of the amount which by virtue of subsection (1) would have been recoverable after the commencement of the bankruptcy; or

(b) is in respect of rent for a period or part of a period after the distress was levied,

shall be held for the bankrupt as part of his estate.

(3) Where any person (whether or not a landlord or person entitled to rent) has distrained upon the goods or effects of an individual who is adjudged bankrupt before the end of the period of three months beginning with the distraint, so much of those goods or effects, or the proceeds of their sale, as is not held for the bankrupt under subsection (2) shall be charged for the benefit of the bankrupt's estate with the preferential debts of the bankrupt to the extent that the bankrupt's estate is for the time being insufficient for meeting those debts.

(4) Where by virtue of any charge under subsection (3) any person surrenders any goods or effects to the trustee of a bankrupt's estate or makes a payment to such a trustee, that person ranks, in respect of the amount of the proceeds of the sale of those goods or effects by the trustee or, as the case may be, the amount of payment, as a preferential creditor of the bankrupt, except as against so much of the bankrupt's estate as is available for the payment of preferential creditors by virtue of the surrender of payment.

(5) A landlord or other person to whom rent is payable is not at any time after the discharge of a bankrupt entitled to distrain upon any goods or effects comprised in the bankrupt's estate.

(6) Nothing in this Part affects any right to distrain otherwise than for rent, and any such right is at any time exercisable without restriction against assets comprised in a bankrupt's estate, even if that right is expressed by any enactment to be exercisable in like manner as a right to distrain for rent.

(7) Any right to distrain against assets comprised in a bankrupt's estate is exercisable notwithstanding that the assets have vested in the trustee.

(8) The provisions of this section are without prejudice to a landlord's right in a bankruptcy to prove for any bankruptcy debt in respect of rent.

Unenforceability of liens on books, etc.

353. (1) A lien or other right to retain possession of any of the books, papers or other records of a bankrupt is unenforceable to the extent that such enforcement would deny possession of any books, papers or other records to the official receiver or the trustee of the bankrupt's estate.

(2) Subsection (1) does not apply to a lien on documents which give a title to assets and are held as such.

GENERAL POWERS OF COURT

General control of Court.

354. (1) Every bankruptcy is under the general control of the Court and, subject to anything to the contrary in this Act, the Court has full power to decide all questions of priorities and all other questions, whether of law or fact, arising in any bankruptcy.

(2) Without limiting this Part, an undischarged bankrupt or a discharged bankrupt whose estate is still being administered shall do all such things as he may be directed to do by the Court for the purposes of his bankruptcy or, as the case may be, the administration of that estate.

(3) The Official Receiver or the trustee of a bankrupt's estate may at any time apply to the court for a direction under subsection (2).

(4) A person who without reasonable excuse fails to comply with any obligation imposed on him by subsection (2) commits an offence.

Power of arrest.

355. (1) In the cases specified in subsection (2) the Court may cause a warrant to be issued to a police officer or a prescribed officer of the Court

(a) for the arrest of a debtor to whom a bankruptcy application relates or of an undischarged bankrupt, or of a discharged bankrupt whose estate is still being administered; and

(b) for the seizure of any documents, money or goods in possession of a person arrested under the warrant;

and may authorise a person arrested under such a warrant to be kept in custody, and anything seized under such a warrant to be held, in accordance with the rules, until such time as the court may order.

(2) The powers conferred by subsection (1) are exercisable in relation to a debtor or undischarged or discharged bankrupt if, at any time after the filing of the bankruptcy application or the making of the bankruptcy order against him, it appears to the Court

(a) that there are reasonable grounds for believing that he has absconded, or is about to abscond, with a view to avoiding or delaying the payment of any of his debts or his appearance to a bankruptcy application or to avoiding, delaying or disrupting any proceedings in bankruptcy against him or any examination of his affairs; or

(b) that he is about to remove his goods with a view to preventing or delaying possession being taken of them by the trustee; or

(c) that there are reasonable grounds for believing that he has concealed or destroyed, or is about to conceal or destroy, any of his assets or any documents which might be of use to his creditors in the course of his bankruptcy or in connection with the administration of his estate; or

(d) that he has, without the leave of his trustee, removed any assets in his possession which exceed in value such sum as may be prescribed for the purpose of this paragraph; or

(e) that he has failed, without reasonable excuse, to attend any examination ordered by the Court.

Seizure of bankrupt's assets.

356. (1) At any time after a bankruptcy order has been made, the Court may, on the application of the official receiver or the trustee of the bankrupt's estate, issue a warrant authorising the person to whom it is directed to seize any assets comprised in the bankrupt's estate which is, or any documents or records relating to the bankrupt's estate or affairs which are, in the possession or under the control of the bankrupt or any other person who is required to deliver the assets, books, papers or records to the Official Receiver or trustee.

(2) Any person executing a warrant under this section may, for the purpose of seizing any assets comprised in the bankrupt's estate or any documents relating to the bankrupt's estate or affairs, break open any premises where the bankrupt or anything that may be seized under the warrant is or is believed to be and any receptacle of the bankrupt which contains or is believed to contain anything that may be so seized.

(3) If, after a bankruptcy order has been made, the Court is satisfied that any assets comprised in the bankrupt's estate or any documents relating to the bankrupt's estate or affairs are concealed in any premises not belonging to him, it may issue a warrant authorising any police officer or prescribed officer of the Court to search those premises for the assets or documents.

(4) A warrant under subsection (3) shall not be executed except in the prescribed manner and in accordance with its terms.

Re-direction of bankrupt's letters, etc.

357. (1) Where a bankruptcy order has been made, the Court may from time to time, on the application of the trustee of the bankrupt's estate, order the Post Office to re-direct and send or deliver to the trustee or otherwise any mail which would otherwise be sent or delivered to the bankrupt at such place or places as may be specified by the order.

(2) An order under this section has effect for such period, not exceeding three months, as may be specified in the order.

DISCLAIMER

Trustee may disclaim onerous property.

358. (1) For the purposes of this section, "onerous property" means

(a) an unprofitable contract; or

(b) an asset comprised in the bankrupt's estate which is unsaleable or not readily saleable, or which may give rise to a liability to pay money or perform an onerous act.

(2) Subject to sections 360 and 361(2), a trustee may, by filing a notice of disclaimer with the Court, disclaim any onerous property comprised in the bankrupt's estate even though he has taken possession of it, tried to sell or assign it or otherwise exercised rights of ownership in relation to it.

(3) A trustee who disclaims onerous property shall, within 14 days of the date on which the disclaimer notice is filed, give notice to every person whose rights are, to his knowledge, affected by the disclaimer.

(4) A trustee who contravenes subsection (3) commits an offence.

When disclaimer takes effect.

359. (1) Subject to subsections (2) and (4), a disclaimer takes effect on the date when the notice of disclaimer is filed at Court.

(2) The disclaimer of property of a leasehold nature does not take effect unless a copy of the disclaimer notice has been given, so far as the trustee is aware of their addresses, to every person claiming under the bankrupt as underlessee or mortgagee and either

(a) no application for a vesting order is made under section 362 with respect to that property before the end of a period of 14 days beginning with the day on which the last notice under this subsection was given; or

(b) where such an application is made, the Court directs that the disclaimer is to take effect.

(3) Where the Court gives a direction under subsection (2)(b), it may also, instead of or in addition to any order it makes under section 362, make such orders with respect to fixtures, tenant's improvements and other matters arising out of the lease as it considers fit.

(4) Without prejudice to subsections (1) to (3), the disclaimer of any property in a dwelling house does not take effect unless a copy of the disclaimer notice has been given, so far as the trustee is aware of their addresses, to every

person in occupation of or claiming a right to occupy the dwelling house and either

(a) no application under section 362 is made with respect to the property before the end of a period of 14 days beginning with the day on which the last notice under this subsection was given; or

(b) where such an application is made, the Court directs that the disclaimer is to take effect.

Notice to trustee to elect whether to disclaim.

360. (1) A person interested in property or whose rights would be effected by the disclaimer of property may, by serving a notice to elect on the trustee, require him to elect whether or not to disclaim the property.

(2) Where a notice to elect is served on a trustee, he is not entitled to disclaim the property under section 358 unless he does so within 28 days of the date of service of the notice on him or within such extended period as the Court may allow.

(3) The trustee is deemed to have adopted any contract which by virtue of this section he is not entitled to disclaim.

Effect of disclaimer.

361. (1) Subject to subsection (2), a disclaimer of onerous property under section 358

(a) operates so as to determine, with effect from the date of the disclaimer, the rights, interests and liabilities of the bankrupt and his estate in or in respect of the property disclaimed; and

(b) discharges the trustee from all personal liability in respect of that property as from the date of his appointment;

but, except so far as is necessary to release the bankrupt, the bankrupt's estate and the trustee from liability, does not affect the rights or liabilities of any other person.

(2) A notice of disclaimer shall not be given under section 358 in respect of any property that has been claimed for the estate under section 318 (after-acquired property) or 319 (personal property of bankrupt exceeding reasonable replacement value), except with the leave of the court.

(3) A person suffering loss or damage as a result of a disclaimer of onerous property under section 358 may claim in the bankruptcy of the bankrupt as a creditor for the amount of the loss or damage.

Vesting orders and orders for delivery.

362. (1) Subject to section 363, if a trustee disclaims onerous property under section 358, the Court may make an order under subsection (2) on the application of

(a) a person who claims an interest in the disclaimed property;

(b) a person who is under a liability in respect of the disclaimed property, that has not been discharged by the disclaimer; or

(c) where the disclaimed property is property in a dwelling house, any person who at the time when the bankruptcy order was made was in occupation of or entitled to occupy the dwelling house.

(2) On an application under subsection (1), the Court may, on such terms as it considers fit, order that the disclaimed property be vested in or delivered to

(a) a person entitled to the property;

(b) a person under a liability in respect of the property that has not been discharged by the disclaimer;

(c) a trustee for a person referred to in paragraph (a) or (b); or

(d) where the disclaimed property is property in a dwelling house, any person who at the time when the bankruptcy order was made was in occupation of or entitled to occupy the dwelling house.

(3) The Court shall not make an order in respect of a person specified in subsection (2)(b), or in respect of a trustee of such a person, unless it appears to the Court that it would be fair to do so for the purpose of compensating the person subject to the liability in respect of the disclaimer.

(4) The effect of any order under this section shall be taken into account in assessing the extent of the loss or damage suffered by a person for the purposes of section 361(3).

(5) Subject to subsection (5), where a vesting order is made under this section vesting property in a person, the property vests immediately without any conveyance, transfer or assignment.

(6) Where another Virgin Islands enactment

(a) requires the transfer of property vested by an order under this section to be registered; and

(b) that enactment enables the order to be registered;

on the making of a vesting order, the property vests in equity but does not vest at law until the registration requirements of the enactment have been complied with.

Vesting orders in respect of leases.

363. (1) Where the Court makes an order under section 362 vesting property of a leasehold nature in a person, the vesting order shall be made on terms that make that person subject

(a) to the same liabilities and obligations as the bankrupt was subject to under the lease on the date that the bankruptcy order was made; or

(b) to the same liabilities and obligations as that person would have been subject to if the lease had been assigned to him on that date.

(2) Where the property vested by an order under section 362 relates to only part of the property comprised in a lease, subsection (1) applies as if the lease comprised the property subject to the vesting order.

(3) Where no person is willing to accept a vesting order made subject to subsection (1), the Court, by order,

(a) may vest the property in any person who is liable, whether personally or in a representative capacity and whether alone or jointly with the bankrupt, to perform the lessee's covenants in the lease; and

(b) where a vesting order is made under paragraph (a), may vest the property free from all estates, encumbrances and interests created by the bankrupt.

(4) Where a person declines to accept a vesting order made subject to subsection (1), he is excluded from all interest in the property.

Land subject to rentcharge.

364. Where land subject to a rentcharge is disclaimed and that land vests by operation of law in any person, including the Crown, that person and his successors in title are not subject to any personal liability in respect of any sums becoming due under the rentcharge except sums becoming due after he, or some person claiming title under or through him, has taken possession or control of the land or has entered into occupation of it.

Disclaimer presumed valid.

365. Unless it is proved that a trustee has breached his duty to give notice under section 358(3) or that he has otherwise breached his duties under this Act or the

Rules with regard to disclaimer, a disclaimer of property by the trustee is presumed to be valid and effective.

INVESTIGATION OF BANKRUPT'S AFFAIRS

Statement of assets and liabilities.

366. (1) Where a bankruptcy order has been made against an individual otherwise than on his own application, the bankrupt shall submit a statement of his assets and liabilities to his trustee within 21 days of the date of the bankruptcy order.

(2) A statement of assets and liabilities shall contain

(a) such particulars of the bankrupt's creditors and of his debts and other liabilities and of his assets as may be prescribed; and

(b) such other information as may be prescribed.

(3) A trustee or the Court may

(a) release the bankrupt from his duty under subsection (1); or

(b) extend the period of time specified in that subsection.

(4) A bankrupt who

(a) fails to submit a statement of his assets and liabilities in accordance with subsection (1); or

(b) submits a statement of his assets and liabilities that does not comply with the prescribed requirements

commits an offence.

Preliminary report.

367. (1) The trustee of a bankrupt shall, within 60 days of the date of the bankruptcy order, prepare a preliminary report stating whether, in his opinion, further enquiry is desirable with respect to

(a) whether the bankrupt has committed a bankruptcy offence;

(b) whether there are any claims under Part **XIV**;

(c) any matter relating to the conduct by the bankrupt of his business or affairs.

(2) The trustee shall send a copy of the report prepared under subsection (1) to the Official Receiver.

(3) Subsection (2) does not apply to the Official Receiver when he is acting as trustee.

(4) The Court may, on the application of the trustee, extend the period specified in subsection (1) on such terms and conditions as it considers fit.

Duty of Official Receiver concerning report under section 367.

368. Where the Official Receiver receives a report under section 226, he shall carry out such investigation, if any, as he considers appropriate.

Application for examination of bankrupt and others.

369. (1) Where a bankruptcy order is made, an application may be made to the Court, ex parte, by the trustee or by the Official Receiver at any time before the discharge of the bankrupt for an order that a person specified in subsection (2) appear before the Court to be examined concerning the affairs, dealings and assets of the bankrupt.

(2) An application under subsection (1) may be made in respect of one or more of the following:

(a) the bankrupt;

(b) the bankrupt's spouse or former spouse;

(c) any person known or believed to be indebted to the bankrupt or to have in his possession any asset comprised in the bankrupt's estate; and

(d) any person appearing to the Court to be able to give information concerning the bankrupt or the bankrupt's dealings, affairs, assets or liabilities.

(3) The examination of a bankrupt may be held in public or in private but the examination of any other person shall be held in private.

(4) Unless the Court otherwise orders, the trustee shall make an application under subsection (1) in respect of the bankrupt if notice requiring him to do so is given to him, in accordance with the Rules, by not less than 50 per cent, in value, of the creditors of the bankrupt.

Order for examination.

370. (1) In this section, “examinee” means the person to be examined before the Court.

(2) On hearing an application made under subsection 369, the Court may order the examinee to appear before the Court to be examined.

(3) An order under subsection (2)

(a) shall direct the examinee to appear before the Court to be examined at a venue specified in the order;

(b) where the examinee is the bankrupt, shall state whether the examination is to be a public or a private examination;

(c) may require the person concerned to produce at the examination any books, records or other documents in his possession or control that relate to the bankrupt or his dealings, affairs, liabilities or assets;

(d) may provide for an alternative method of service of the order on the examinee;

(e) shall state the action that may be taken against a person if he does not appear before the Court as required by the order; and

(f) where the examination is to be a public examination, may require the examination to be advertised, specifying the method of such advertisement.

(4) Where the Court makes an order under subsection (2), the applicant shall, forthwith serve a sealed copy of the order on the examinee and, where the trustee is not the Official Receiver,

(a) if the applicant is the trustee, send a sealed copy of the notice to the Official Receiver; or

(b) if the applicant is the Official Receiver, send a sealed copy of the notice to the trustee.

(5) Where an order under subsection (2) is for the public examination of the bankrupt, the applicant shall give not less than 14 days notice of the examination to each creditor of the bankrupt.

(6) The Court may as part of an order made under this section, or at any subsequent time, make one or more of the following directions:

(a) a direction specifying the matters upon which the examinee may be examined;

(b) a direction specifying the procedures to be followed at the examination; and

(c) in the case of an examinee referred to in section 369(2)(b), (c) or (d) a direction that the examinee

(i) file with the Court an affidavit containing such matters as are specified by the Court, or

(ii) produce at his examination any documents in his possession or under his control relating to the bankrupt's dealings, affairs, assets or liabilities.

Conduct of examination.

371. (1) This section applies to an examination held pursuant to an order made under section 370.

(2) An examinee shall be examined on oath, either orally or by interrogatories, and he shall answer such questions as the Court may put, or allow to be put to him.

(3) Subject to subsections (4) and (5), an examination is conducted by the applicant, or by his legal practitioner, and the person examined is entitled to be represented by a legal practitioner who may put such questions to the examinee as the Court may allow for the purpose of explaining or qualifying answers given by him.

(4) The examinee may also be examined

(a) if the applicant is the Official Receiver, by the trustee; or

(b) if the applicant is the trustee, by the Official Receiver.

(5) At a public examination of the bankrupt, questions may, with the leave of the Court, be put to the examinee by any creditor present at the examination or by the legal practitioner representing such a creditor.

(6) An examination shall be recorded in writing and the examinee shall sign the record.

(7) Subject to section 372, the written record of an examination is admissible in evidence in any proceedings under this Act.

Examinee shall answer questions put to him.

372. (1) An examinee is not excused from answering a question put to him at an examination held pursuant to an order made under section 370 on the ground that the answer may incriminate him or tend to incriminate him.

(2) Notwithstanding subsection (1), the record of an examination held pursuant to an order made under section 370 is not admissible as evidence in any criminal proceedings against the examinee except where he is charged with the offence of perjury.

Examinee failing to appear for his examination.

373. (1) Where a person without reasonable excuse fails to attend an examination ordered to be held under section 370, or there are reasonable grounds for believing that the examinee has absconded, or is about to abscond, with a view to avoiding or delaying his examination, the Court may issue a warrant to a police officer or a prescribed officer of the Court

(a) for the arrest of that person; and

(b) for the seizure of any books, papers, records, money or goods in that person's possession.

(2) The Court may authorise a person arrested under a warrant issued under subsection (1) to be kept in custody, and anything seized under such a warrant to be held, in accordance with the Rules, until that person is brought before the Court under the warrant or until such other time as the Court may order.

(3) A person who fails to attend an examination ordered to be held under section 370 commits an offence.

Court's enforcement powers.

374. (1) If it appears to the Court, on consideration of any evidence obtained under section 371, 373 or this section, that any person has in his possession any assets comprised in the bankrupt's estate, the Court may, on the application of the trustee, order that person to deliver the assets or any of them to the trustee at such time, in such manner and on such terms as the Court considers fit.

(2) If it appears to the Court, on consideration of any evidence obtained under section 371, 373 or this section, that any person is indebted to the bankrupt, the court may, on the application of the trustee, order that person to pay the trustee, at such time and in such manner as the Court may direct, the whole or part of the amount due, whether in full discharge of the debt or otherwise as the Court thinks fit.

(3) The Court may order that any person who, if within the jurisdiction of the Court, would be liable to be examined pursuant to an order made under section 370 shall be examined in the Virgin Islands or any place outside the Virgin Islands.

DISCHARGE AND ANNULMENT OF BANKRUPTCY

Bankrupt ineligible for automatic discharge.

375. (1) For the purposes of section 376, a bankrupt is ineligible for automatic discharge if

(a) he has been an undischarged bankrupt at any time in the ten years prior to the date of the bankruptcy order; or

(b) he has been convicted of a bankruptcy offence.

(2) Where a previous bankruptcy order made against a person has been annulled under section 382, the period during which that person was an undischarged bankrupt by virtue of that bankruptcy order shall be ignored for the purposes of subsection (1)(a).

Automatic discharge.

376. (1) Subject to subsection (2), a bankrupt is discharged from bankruptcy at the end of the period of three years commencing on the date of the bankruptcy order unless

(a) he is ineligible for automatic discharge by virtue of section 375; or

(b) he has previously been discharged under section 379(1)(b) or (c).

(2) On the application of a person specified in subsection (3), the Court may, on the grounds specified in subsection (4),

(a) extend the period referred to in subsection (1);

(b) order that the period will cease to run until the fulfilment of such conditions as it may specify; or

(c) order that the bankrupt is not entitled to automatic discharge.

(3) An application under subsection (2) may be made on the application of the Official Receiver or the trustee of the bankrupt.

(4) The Court may

(a) make an order under subsection (2)(a) or (b) if it is satisfied that the bankrupt has failed or is failing to comply with any of his obligations under this Act or the Rules; or

(b) make an order under subsection (2)(c) on any of the grounds upon which it could refuse to discharge the bankrupt under section 379.

(5) An application under subsection (2)

(a) shall be made before the bankrupt has been discharged under subsection (1); and

(b) when made, operates to suspend the period referred to in subsection (1) until after the determination of the application by the Court.

(6) The Court may not, by an order made under section 496(1), permit an application to be made under subsection (2) after the discharge of a bankrupt under subsection (1).

Application by bankrupt concerning order for suspension of discharge.

377. (1) Where the Court has made an order under section 376(2)(b) that the period for automatic discharge will cease to run, the bankrupt may apply to the Court for the order to be varied or discharged.

(2) On an application made under subsection (1), the Court may vary or discharge its order.

Application for discharge by Court order.

378. (1) A bankrupt may apply to the Court for his discharge,

(a) where he is ineligible for automatic discharge or where the Court has made an order under section 376(2)(c) that he is not entitled to automatic discharge, at any time after three years from the date of the bankruptcy order; or

(b) in any other case, at any time after six months from the date of the bankruptcy order.

(2) An application under subsection (1) shall be served on

(a) the Official Receiver; and

(b) his trustee, if not the Official Receiver;

not less than 42 days before the date fixed for the hearing.

Court order on application for discharge.

379. (1) Subject to subsections (3), (4) and (5), on an application under section 378, the Court may

(a) refuse the application;

(b) make an order discharging the bankrupt absolutely; or

(c) make an order discharging the bankrupt subject to such conditions as it considers fit, including conditions with respect to

(i) any income which may subsequently become due to him, or

(ii) any assets that may devolve on him or be acquired by him after his discharge.

(2) An order under subsection (1)(c) may be made with immediate effect or may be made effective after such period or until the fulfilment of such conditions as may be specified in the order.

(3) Where an application is made under subsection (1) more than eight years after the date of the bankruptcy order, the Court shall not refuse the application unless it is satisfied that there are exceptional reasons for not granting the bankrupt his discharge.

(4) Subject to subsection (4), the Court may refuse to grant a bankrupt his discharge if

(a) the bankrupt has failed or is failing to comply with his obligations under this Act or the Rules;

(b) the bankrupt has, after the date of the bankruptcy order, engaged in a prohibited activity within the meaning of section 260(3);

(c) the bankrupt has been convicted of a bankruptcy offence;

(d) the bankrupt has failed, whether intentionally or not, to disclose to his trustee particulars of

(i) any of his assets,

(ii) any liability existing at the date of the bankruptcy order, or

(iii) any income or expected income;

(e) where the bankrupt has been engaged in any business for any of the period of three years prior to the date of the bankruptcy order, he has

(i) failed to keep such books and accounts as would sufficiently disclose his business transactions and financial position whilst engaged in his business; or

(ii) having kept the books and accounts referred to in subparagraph (i), he has failed to preserve them;

(f) the bankrupt continued to trade after knowing, or having reason to believe himself to be insolvent;

(g) the bankrupt contracted any liability that is claimable in his bankruptcy without having at the time of contracting it any reasonable expectation that he would be able to discharge it;

(h) that the bankrupt, either before or after the bankruptcy order, has committed any fraud or breach of trust;

(i) that the bankrupt has entered into a voidable transaction within the meaning of section 400; or

(j) for any other reason it considers it appropriate to do so.

Effect of discharge.

380. (1) Subject to this section, where a bankrupt is discharged, the discharge releases him from all debts claimable in the bankruptcy, but has no effect

(a) on the functions, so far as they remain to be carried out, of the trustee; or

(b) on the operation, for the purposes of the carrying out of those functions, of the provisions of this Act;

(2) The discharge of a bankrupt does not affect the right

(a) of any creditor of the bankrupt to prove in the bankruptcy for any debt from which the bankrupt is released; or

(b) of any secured creditor of the bankrupt to enforce his security interest for the payment of a debt from which the bankrupt is released.

(3) The discharge of a bankrupt does not release the bankrupt from

(a) a liability incurred by means of a fraud or fraudulent breach of trust to which the bankrupt was a party or a liability of which he has obtained forbearance by fraud;

(b) a liability under a recognizance; or

(c) a liability in respect of a fine imposed for an offence.

(4) Except to such extent and subject to such conditions as the Court may otherwise order, the discharge of a bankrupt does not release the bankrupt from

(a) a liability under a maintenance agreement or maintenance order or arrears payable under such an agreement or order;

(b) a liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other duty, being damages in respect of personal injuries to any person; or

(c) such other liabilities, not being liabilities that may be claimed in the bankruptcy, as may be prescribed.

(5) The discharge of a bankrupt does not release any person other than the bankrupt from any liability, whether as partner or co-trustee of the bankrupt or otherwise, from which the bankrupt is released by the discharge, or from any liability as surety for the bankrupt or as a person in the nature of such a surety.

(6) In subsection (4), "personal injuries" includes death and any disease or other impairment of a person's physical or mental condition.

Discharged bankrupt to give assistance.

381. (1) A discharged bankrupt shall, even though discharged, give such assistance as his trustee reasonably requires in the realization and distribution of such of his assets as are vested in his trustee.

(2) A discharged bankrupt who contravenes subsection (1) commits an offence.

Annulment of bankruptcy order.

382. (1) The Court may annul a bankruptcy order if at any time it appears to the court

(a) that, on any grounds existing at the time the order was made, the order ought not to have been made; or

(b) that, to the extent required by this Act and the Rules, the claims made in the bankruptcy and the expenses of the bankruptcy have all, since the making of the order, been either paid or secured for to the satisfaction of the Court.

(2) The Court may annul a bankruptcy order whether or not the bankrupt has been discharged.

(3) Where the court annuls a bankruptcy order,

(a) any sale or other disposition of assets, payment made or other thing done, under any provision in this Part, by or under the authority of the trustee or by the Court is valid; but

(b) if any of the bankrupt's estate is then vested, under any such provision, in such a trustee, it shall vest in such person as the Court may appoint or, in default of any such appointment, revert to the bankrupt on such terms, if any, as the court may direct.

(4) The Court may, in an order made under subsection (2), include such supplemental provisions as may be authorised by the Rules.

(5) The trustee shall vacate office if the bankruptcy order is annulled.

Release of trustee.

383. (1) Where the Official Receiver ceases to be the trustee of a bankrupt's estate and another person is appointed trustee in his place, the Official Receiver obtains his release

(a) from the appointment of the new trustee; or

(b) such later date as the Court may determine.

(2) If the Official Receiver, while he is the trustee, gives notice to the Court that the administration of the bankrupt's estate in accordance with this Part is for practical purposes complete, he obtains his release with effect from such time as the Court may determine.

(3) A person other than the Official Receiver who ceases to be trustee may apply to the Court for his release and the Court may grant the release unconditionally or subject to such conditions as it considers fit, or withhold it.

(4) If the Court withholds the release it may make an order against the former trustee under section 384.

(5) Where a bankruptcy order is annulled, the trustee at the time of the annulment has his release with effect from such time as the Court may determine.

(6) Subject to subsection (7), where a former trustee is released under this section, he is discharged from all liability in respect of any act or default of his in relation to the administration of the estate and otherwise in relation to his conduct as trustee.

(7) Subsection (6) does not prevent the Court from making an order under section 384 against a trustee who has been released under this section.

(8) A trustee, other than the Official Receiver, who obtains his release under this section shall file a notice in the prescribed form with the Official Receiver.

Liability of trustee.

384. (1) Where on an application under this section the Court is satisfied

(a) that the trustee of a bankrupt's estate has misapplied or retained, or become accountable for, any money or other assets comprised in the bankrupt's estate; or

(b) that a bankrupt's estate has suffered any loss in consequence of any misfeasance or breach of fiduciary or other duty by a trustee of the estate in the carrying out of his functions;

the Court may order the trustee, for the benefit of the estate, to repay, restore or account for money or other assets, together with interest at such rate as the Court considers just, or, as the case may require, to pay such sum by way of compensation in respect of the misfeasance or breach of fiduciary or other duty as the Court considers just.

(2) Subject to subsection (3), an application under this section may be made by the Official Receiver, a creditor of the bankrupt or, whether or not there is, or is likely to be, a surplus for the purposes of section 348, the bankrupt himself.

(3) The leave of the Court is required for the making of an application under this section if it is to be made by the bankrupt or if it is to be made after the trustee has had his release under section 383.

(4) Where

(a) the trustee seizes or disposes of any asset which is not comprised in the bankrupt's estate; and

(b) at the time of the seizure or disposal the trustee believes, and has reasonable grounds for believing, that he is entitled, whether pursuant to an order of the court or otherwise, to seize or dispose of that asset;

the trustee is not liable to any person, whether under this section or otherwise, in respect of any loss or damage resulting from the seizure or disposal except in so far as that loss or damage is caused by negligence of the trustee and the trustee has a lien on the asset, or the proceeds of its sale, for such of the expenses of the bankruptcy as were incurred in connection with the seizure or disposal.

(5) Subsection (1) does not prevent any person from instituting any other proceedings in relation to matters in respect of which an application can be made under that subsection.

SECOND OR SUBSEQUENT BANKRUPTCY

Stay of distribution in case of second bankruptcy.

385. (1) This section and section 386 apply where a bankruptcy order is made against an undischarged bankrupt and in both sections

"earlier bankruptcy" means the bankruptcy, or the most recent bankruptcy, from which the bankrupt has not been discharged at the time when the later bankruptcy commences;

"later bankruptcy" means the bankruptcy arising from the bankruptcy order made against an undischarged bankrupt; and

"existing trustee" means the trustee, if any, of the bankrupt's estate for the purposes of the earlier bankruptcy.

(2) Where the existing trustee has been given notice of the application for the later bankruptcy, any distribution or other disposition by him of any asset to which subsection (3) applies made after the giving of the notice is void except to the extent that it was made with the consent of the Court or is or was subsequently ratified by the Court.

(3) Subsection (2) applies to

(a) any asset which is vested in the existing trustee under section 318;

(b) any money paid to the existing trustee pursuant to an income payments order under section 322; and

(c) any asset or money which is, or in the hands of the existing trustee represents, the proceeds of sale or application of an asset or money falling within paragraphs (a) or (b).

Adjustment between earlier and later bankruptcy estates.

386. (1) With effect from the commencement of the later bankruptcy any asset to which section 385(3) applies which, immediately before the commencement of that bankruptcy, is comprised in the bankrupt's estate for the purposes of the earlier bankruptcy is to be treated as comprised in the bankrupt's estate for the purposes of the later bankruptcy.

(2) Any sum which in pursuance of an income payments order made under section 322 is payable after the commencement of the later bankruptcy to

the existing trustee shall form part of the bankrupt's estate for the purposes of the later bankruptcy and the court may give such consequential directions for the modification of the order as it considers fit.

(3) Anything comprised in a bankrupt's estate by virtue of subsections (1) or (2) is so comprised subject to a first charge in favour of the existing trustee for his remuneration or any bankruptcy expenses incurred by him in relation thereto.

(4) Except as provided in this section and in section 385, any asset which is, or by virtue of section 319 is capable of being, comprised in the bankrupt's estate for the purposes of the earlier bankruptcy, or of any bankruptcy prior to it, is not comprised in his estate for the purposes of the later bankruptcy.

(5) The creditors of the bankrupt in the earlier bankruptcy and the creditors of the bankrupt in any bankruptcy prior to the earlier bankruptcy, are not to be creditors of his in the later bankruptcy in respect of the same liabilities but the existing trustee may claim in the later bankruptcy for

(a) the unsatisfied balance of the liabilities, including any liability under this subsection, claimable against the bankrupt's estate in the earlier bankruptcy;

(b) any interest payable on that balance; and

(c) any unpaid expenses of the earlier bankruptcy.

(6) Any amount claimable under subsection (5) ranks in priority after all the other claims admitted in the later bankruptcy and after interest on those claims and, accordingly, shall not be paid unless those claims and that interest have first been paid in full.

PART XIII

BANKRUPTCY OFFENCES

Definitions.

387. In this Part,

(a) references to assets comprised in the bankrupt's estate or to assets possession of which is required to be delivered up to the trustee include any assets specified in section 313;

(b) "initial period" means the period between the filing of the application for the bankruptcy order and the commencement of the bankruptcy; and

(c) a reference to a number of months or years before the application is to that period ending with the filing of the application for the bankruptcy order.

Defence of innocent intention.

388. (1) Subject to subsection (2), the bankrupt does not commit a bankruptcy offence if he proves that, at the time of the conduct constituting the offence, he had no intent to defraud or to conceal the state of his affairs.

(2) Subsection (1) does not apply to sections 390(1)(e), 392(b), 392(c), 392(d), 392(e), 396(1), 397 and 398.

Non-disclosure.

389. (1) The bankrupt commits an offence if

(a) he does not to the best of his knowledge and belief disclose all the assets comprised in his estate to the trustee; or

(b) he does not inform the trustee of any disposal of any assets which, but for the disposal, would be so comprised, stating how, when, to whom and for what consideration the asset was disposed of.

(2) Subsection (1)(b) does not apply to any disposal in the ordinary course of a business carried on by the bankrupt or to any payment of the ordinary expenses of the bankrupt or his family.

Concealment of assets.

390. The bankrupt commits an offence if

(a) he does not deliver up possession to the trustee, or as the trustee may direct, those assets comprised in his estate as are in his possession or under his control of which he is required by law so to deliver up;

(b) he conceals any debt due to or from him or conceals any asset, the value of which is not less than the prescribed amount and possession of which he is required to deliver up to the trustee; or

(c) in the 12 months before the application, or in the initial period, he did anything which would have been an offence under paragraph (b) if the bankruptcy order had been made immediately before he did it.

(d) he removes, or in the initial period removed, any asset the value of which was not less than the prescribed amount and possession of which he is or would have been required to deliver up to the trustee.

(e) he without reasonable excuse fails, on being required to do so by the Official Receiver or the Court,

(i) to account for the loss of any substantial part of his assets incurred in the 12 months before the application or in the initial period, or

(ii) to give a satisfactory explanation of the manner in which such a loss was incurred.

Concealment of books and papers; falsification.

391. The bankrupt commits an offence if

(a) he does not deliver up possession to the trustee, or as the trustee may direct, of all documents in his possession or control which relate to his estate or his affairs.

(b) he prevents, or in the initial period prevented, the production of any documents relating to his estate or affairs;

(c) he conceals, destroys, mutilates or falsifies, or causes or permits the concealment, destruction, mutilation or falsification of, any documents relating to his estate or affairs;

(d) he makes, or causes or permits the making of, any false entries in any documents relating to his estate or affairs;

(e) he disposes of, or alters or makes any omission in or causes or permits the disposal, altering or making of any omission in , any document relating to his estate or affairs; or

(f) in the 12 months before the application, or in the initial period, he did anything which would have been an offence under paragraph (c), (d) or (e) if the bankruptcy order had been made before he did it.

False statements.

392. The bankrupt commits an offence if

(a) he makes any false statement or any material omission in any statement made under this Act relating to his affairs;

(b) knowing or believing that a false claim has been made by any person under the bankruptcy, he fails to inform the trustee as soon as practicable; or

(c) he attempts to account for any part of his assets by fictitious losses or expenses; or

(d) at any meeting of his creditors in the 12 months before the application or, whether or not at such a meeting, at any time in the initial period, he did anything which would have been an offence under paragraph (c) if the bankruptcy order had been made before he did it; or

(e) he is, or at any time has been, guilty of any false representation or other fraud for the purposes of obtaining the consent of his creditors, or any of them, to an agreement with reference to his affairs or to his bankruptcy.

Fraudulent disposal of assets.

393. (1) The bankrupt commits an offence if

(a) he makes or causes to be made, or has during the period of 5 years prior to the date of the bankruptcy order made or caused to be made, any gift or transfer of, or any charge on, his assets; or

(b) he conceals or removes, or has at any time before the commencement of the bankruptcy, concealed or removed, any of his assets after, or within sixty days before, the date on which a judgement or order for the payment of money has been obtained against him, being a judgement or order which was not satisfied before the commencement of the bankruptcy.

(2) The reference in subsection (1) to making a transfer of or a charge on any asset includes causing or conniving at the levying of any execution against that asset.

Absconding.

394. The bankrupt commits an offence if

(a) he leaves, or attempts or makes preparations to leave the Virgin Islands with any assets the value of which is not less than the prescribed amount and possession of which he is required to deliver up to the Official Receiver or the trustee; or

(b) in the 6 months before the application, or in the initial period, he did anything which would have been an offence under paragraph(a)if the bankruptcy order had been made immediately before he did it.

Fraudulent dealing with asset obtained on credit.

395. (1) The bankrupt commits an offence if, in the 12 months before the application, or in the initial period, he disposed of any asset which he had obtained on credit and, at the time he disposed of it, had not paid for.

(2) A person commits an offence if, in the 12 months before the application, or in the initial period, he acquired or received an asset from the bankrupt knowing or believing

(a) that the bankrupt owed money in respect of the asset; and

(b) that the bankrupt did not intend, or was unlikely to be able, to pay the money so owed.

(3) A person does not commit an offence under subsection (1) or (2) if the disposal, acquisition or receipt of the asset was in the ordinary course of a business carried on by the bankrupt at the time of the disposal, acquisition or receipt.

(4) In determining for the purposes of this section whether any asset is disposed of, acquired or received in the ordinary course of a business carried on by the bankrupt, regard may be had, in particular, to the price paid for the asset.

(5) In this section, references to disposing of an asset include pawning or pledging it and references to acquiring or receiving an asset shall be read accordingly.

Obtaining credit; engaging in business.

396. (1) The bankrupt commits an offence if

(a) either alone or jointly with any other person, he obtained credit to the extent of the prescribed amount or more without informing that person that he is an undischarged bankrupt;

(b) he engages, whether directly or indirectly, in any business under a name other than that in which he was made bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was made bankrupt.

(2) The reference to the bankrupt obtaining credit includes the following cases,

(a) where goods are billed to him under a hire-purchase agreement, or agreed to be sold to him under a conditional sale agreement; and

(b) where he is paid in advance, whether in money or otherwise, for the supply of goods and services.

Failure to keep proper accounts of business.

397. (1) Where the bankrupt has been engaged in any business for any of the period of two years before the application, he commits an offence if he

(a) has not kept proper accounting records throughout that period and throughout any part of the initial period in which he was so engaged; or

(b) has not preserved all the accounting records which he has kept.

(2) The bankrupt does not commit an offence under subsection (1)

(a) if his unsecured liabilities at the commencement of the bankruptcy did not exceed the prescribed amount; or

(b) if he proves that in the circumstances in which he carried on business the omission was honest and excusable.

(3) For the purpose of this section, a person is deemed not to have kept proper accounting records if he has not kept such records as are necessary to show or explain his transactions and financial position in his business, including

(a) records containing entries from day to day, in sufficient detail, of all cash paid and received;

(b) where the business involves dealing in goods, statements of annual stock-takings; and

(c) except in the case of goods sold by way of retail trade to the actual customer, records of all goods sold and purchased showing the buyers and sellers in sufficient detail to enable the goods and the buyers and sellers to be identified.

Gambling.

398. (1) The bankrupt commits an offence if he has

(a) in the two years before the application, materially contributed to, or increased the extent of, his insolvency by gambling or by rash and hazardous speculations; or

(b) in the initial period, lost any of his assets by gambling or by rash and hazardous speculations.

(2) In determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the bankrupt at the time when he entered into them shall be taken into consideration.

Supplementary provisions.

399. (1) Proceedings for a bankruptcy offence may not be instituted after the annulment of the bankruptcy.

(2) Without limiting the liability of a bankrupt in respect of a subsequent bankruptcy, the bankrupt does not commit an offence under this Part in respect of anything done after his discharge but nothing in this Act prevents the institution of proceedings against a discharged bankrupt for an offence committed before his discharge.

(3) It is not a defence in proceedings for an offence under this Part that anything relied on, in whole or in part, as constituting that offence was done outside the Virgin Islands.

PART XIV

VOIDABLE TRANSACTIONS

Interpretation for this Part.

400. (1) In this Part,

"debtor" means the individual against whom a bankruptcy order is made;

"insolvent bankruptcy" means a bankruptcy where the assets comprised in the bankrupt's estate are insufficient to pay his liabilities and the expenses of the bankruptcy;

"insolvency transaction" has the meaning specified in subsection (2);

"onset of insolvency" means the date on which the application for a

bankruptcy order was filed;

"voidable transaction" means

(a) an unfair preference;

(b) an undervalue transaction;

(c) a voidable general assignment of book debts; or

(d) an extortionate credit transaction;

"vulnerability period" means,

(a) for the purposes of sections 401, 402 and 403,

(i) in the case of a transaction entered into with, or a preference given to, a connected person, the period commencing 2 years prior to the onset of insolvency and ending on the date of the bankruptcy order; and

(ii) in the case of a transaction entered into with, or a preference given to, any other person, the period commencing six months prior to the onset of insolvency and ending on the date of the bankruptcy order; and

(b) for the purposes of section 404, the period commencing 5 years prior to the onset of insolvency and ending on the date of the bankruptcy order;

(2) A transaction is an insolvency transaction if

(a) it is entered into at a time when the debtor is insolvent; or

(b) it causes the debtor to become insolvent;

(3) For the purposes of subsection (2)(b), an individual is insolvent if he is unable to pay his debts as they fall due for payment.

(4) This Part applies in respect of an individual only if a bankruptcy order is made against him.

401. (1) Subject to subsection (2), a transaction entered into by an individual is an unfair preference given by the individual to a creditor if the transaction

Unfair preferences.

(a) is an insolvency transaction;

(b) is entered into within the vulnerability period; and

(c) has the effect of putting the creditor into a position which, in the event of the individual becoming a bankrupt, will be better than the position he would have been in if the transaction had not been entered into.

(2) A transaction is not an unfair preference if the transaction took place in the ordinary course of business.

(3) A transaction may be an unfair preference notwithstanding that it is entered into pursuant to the order of a court or tribunal in or outside the Virgin Islands.

(4) Where a transaction entered into by an individual within the vulnerability period has the effect specified in subsection (1)(c) in respect of a creditor who is a connected person, unless the contrary is proved, it is presumed that the transaction was an insolvency transaction and that it did not take place in the ordinary course of business.

Undervalue transactions.

402. (1) Subject to subsection (2), an individual enters into an undervalue transaction with a person if

(a) he makes a gift to that person or otherwise enters into a transaction with that person on terms that provide for him to receive no consideration; or

(b) he enters into a transaction with that person for a consideration the value of which, in money or money's worth, is significantly less than the value, in money or money's worth, of the consideration provided by him; and

(c) in either case, the transaction concerned

(i) is an insolvency transaction; and

(ii) is entered into within the vulnerability period.

(2) An individual does not enter into an undervalue transaction with a person if

(a) the individual enters into the transaction in good faith and for the purposes of his business; and

(b) at the time when he enters into the transaction, there were

reasonable grounds for believing that the transaction would benefit him.

(3) A transaction may be an undervalue transaction notwithstanding that it is entered into pursuant to the order of a court or tribunal in or outside the Virgin Islands.

(4) Where an individual enters into a transaction with a connected person within the vulnerability period and the transaction falls within subsection (1)(a) or subsection (1)(b), unless the contrary is proved, it is presumed that

(a) the transaction was an insolvency transaction; and

(b) subsection (2) did not apply to the transaction.

Voidable general assignment of book debts.

403. (1) This section applies where an individual engaged in any business makes a general assignment to another of his existing or future book debts, or any class of them, and a bankruptcy order is subsequently made against him.

(2) The assignment is voidable as regards book debts which were not paid before the filing of the application for the bankruptcy order, unless the assignment has been registered under the Bills of Sale Act. Cap. 284

(3) For the purposes of subsections (1) and (2),

(a) "assignment" includes an assignment by way of security or charge on book debts; and

(b) "general assignment" does not include

(i) an assignment of book debts due at the date of the assignment from specified debtors or of debts becoming due under specified contracts, or

(ii) an assignment of book debts included either in a transfer of a business made in good faith and for value or in an assignment of assets for the benefit of creditors generally.

(4) For the purposes of registration under the Bills of Sale Act, an assignment of book debts is to be treated as if it were a bill of sale given otherwise by way of security for the payment of a sum of money; and the provisions of that Act with respect to the registration of bills of sale apply accordingly with such necessary modifications as may be made by rules under that Act.

Extortionate credit transactions.

404. A transaction entered into by an individual within the vulnerability period for, or involving the provision of, credit to him is an extortionate credit transaction if, having regard to the risk accepted by the person providing the credit,

(a) the terms of the transaction are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of credit; or

(b) the transaction otherwise grossly contravenes ordinary principles of fair trading.

Orders in respect of voidable transactions.

405. (1) Subject to section 406, where it is satisfied that a transaction entered into by an individual is a voidable transaction the Court, on the application of the bankruptcy trustee of the individual,

(a) may make an order setting aside the transaction in whole or in part;

(b) in respect of an unfair preference or an undervalue transaction, may make such order as it considers fit for restoring the position to what it would have been if the bankrupt had not entered into that transaction; and

(c) in respect of an extortionate credit transaction, may by order provide for any one or more of the following:

(i) the variation of the terms of the transaction or the terms on which any security interest for the purposes of the transaction is held;

(ii) the payment by any person who is or was a party to the transaction to the trustee of any sums paid by the bankrupt to that person by virtue of the transaction;

(iii) the surrender by any person to the trustee of any asset held by him as security for the purposes of the transaction; and

(iv) the taking of accounts between any persons.

(2) Without prejudice to the generality of subsection (1)(b), an order under that paragraph may

(a) require any asset transferred as part of the transaction to be vested in the trustee;

(b) require any asset to be vested in the trustee if it represents in any person's hands the application either of the proceeds of sale of an asset transferred or of money transferred, in either case as part of the transaction;

(c) release or discharge, in whole or in part, any security interest given by the bankrupt or the liability of the bankrupt under any contract;

(d) require any person to pay, in respect of benefits received by him from the bankrupt, such sums to the trustee as the Court may direct;

(e) provide for any surety or guarantor whose obligations to any person were released or discharged, in whole or in part, under the transaction, to be under such new or revived obligations to that person as the Court considers appropriate;

(f) provide for security to be provided for the discharge of any obligation imposed by or arising under the order, for such an obligation to be charged on any asset and for the security interest or charge to have the same priority as a security interest or charge released or discharged, in whole or in part, under the transaction;

(g) provide for a person effected by an order made under subsection (1) to prove in the bankruptcy of the bankrupt in such amount as the Court considers fit; and

(h) require the company to make a payment or transfer an asset to any person affected by an order made under subsection (1).

(3) Subject to section 250, in respect of an unfair preference or an undervalue transaction, an order under subsection (1) may affect the assets of, or impose any obligation on, any person whether or not he is the person with whom the bankrupt entered into the transaction.

Limitations on orders under section 405.

406. (1) This section applies to an order made under section 405(1) in respect of an unfair preference or an undervalue transaction.

(2) An order to which subsection (1) applies shall not

(a) prejudice any interest in an asset that was acquired in good faith and for value from a person other than the bankrupt, or prejudice any interest deriving from such an interest; or

(b) require a person who received a benefit from the transaction in

good faith and for value to pay a sum to the trustee, except where that person was a party to the transaction or, in respect of an unfair preference, the preference was given to that person when he was a creditor of the bankrupt.

(3) For the purposes of subsection (2), where a person would, apart from the requirement for good faith, fall within the circumstances specified in paragraph (a) or (b), it is presumed, unless the contrary is proved, that he acquired the interest or received the benefit in good faith.

(4) Subsection (3) does not apply to a person

(a) who, at the time of the transaction, had notice of

(i) the fact that the transaction was an unfair preference or an undervalue transaction, as the case may be; or

(ii) the relevant proceedings as defined in subsection (5); or

(b) who was, at the time of the transaction, a connected person.

(5) For the purposes of subsection (4), a person has notice of the relevant proceedings if he had notice that an application had been made for the bankruptcy of the individual.

Recoveries.

407. Any money paid to, asset recovered or other benefit received by the trustee as a result of an order made under section 405 is deemed to be an asset comprised in the bankrupt's estate that is available to pay his unsecured creditors.

Remedies not exclusive.

408. The provisions of this Part apply without prejudice to the availability of any other remedy.

PART XV

BANKRUPTCY RESTRICTIONS ORDERS AND UNDERTAKINGS

Interpretation for this Part.

409. In this Part,

"restricted person" means a person

(a) against whom a bankruptcy restrictions order or an interim order has effect; or

(b) in respect of whom a bankruptcy restrictions undertaking is in place;

"voluntary liquidator" means a liquidator appointed by the directors or members of an international business company under Part IX of the International Business Companies Act. Cap. 291

Bankruptcy restrictions orders and undertakings.

410. (1) A bankruptcy restrictions order is an order that an individual shall not, for the period specified in the order, engage in a prohibited activity without the leave of the Court.

(2) A bankruptcy restrictions undertaking is an undertaking in writing given by an individual to the Official Receiver that he will not, for the period specified in the undertaking, engage in a prohibited activity without the leave of the Court.

(3) For the purpose of this Part, an individual engages in a prohibited activity if

(a) he is a director of a company;

(b) he acts as the voluntary liquidator of a company;

(c) he acts as the receiver of the assets of a company;

(d) he acts as an insolvency practitioner;

(e) in any way, whether directly or indirectly, he is concerned with or takes part in the promotion, formation or management of a company; or

(f) he undertakes any activity prescribed as a prohibited activity.

Application for and hearing of application for bankruptcy restrictions order.

411. (1) The Official Receiver may apply to the Court for a bankruptcy restrictions order against a bankrupt.

(2) On an application under subsection (1), the Court may, make a bankruptcy restrictions order against a bankrupt where it considers it appropriate having regard to the conduct of the bankrupt, whether before or after the making of the bankruptcy order against him.

(3) Without limiting subsection (3), the Court shall in particular take into account

(a) any behaviour of the bankrupt that constitutes a bankruptcy offence, whether or not the bankrupt has been convicted of the offence; and

(b) whether the bankrupt was an undischarged bankrupt at some time during the six years prior to the making of the bankruptcy order in respect of which the application is made.

Duration of bankruptcy restrictions order.

412 (1) The Court shall, on making a disqualification order, specify the period for which the order has effect.

(2) The period referred to in subsection (1) shall commence on a date no earlier than the date of the order and no later than 28 days after the date of the order and shall not exceed ten years.

Interim bankruptcy restrictions order.

413. (1) In this section, "interim order" means an interim bankruptcy restrictions order.

(2) The Official Receiver may apply to the Court for an interim order at any time between

(a) the filing by him of an application for a bankruptcy restrictions order; and

(b) the determination of that application.

(3) The Court may, on an application made under subsection (1), make an interim order against a bankrupt if it considers

(a) that there are *prima facie* grounds to suggest that the application for the bankruptcy restrictions order will be successful; and

(b) it is in the public interest to make an interim order.

(3) An interim order shall

(a) take effect on the date that it is made; and

(b) have the same effect as a bankruptcy restrictions order.

(4) An interim order shall cease to have effect

(a) on the determination of the application for the bankruptcy restrictions order;

(b) on the acceptance of a bankruptcy restrictions undertaking made by a bankrupt; or

(c) on the discharge of the interim order by the Court on the application of the Official Receiver or the bankrupt.

Bankruptcy restrictions undertaking.

414. (1) A bankrupt may offer the Official Receiver a bankruptcy restrictions undertaking, whether or not the Official Receiver has made an application against him for a bankruptcy restrictions order.

(2) The Official Receiver may accept an offer made to him under subsection (1) if he considers that

(a) there is a reasonable prospect that, on the hearing of an application under section 411, the Court would make a bankruptcy restrictions order against the bankrupt offering the undertaking; and

(b) it is expedient and in the public interest to accept the offer.

(3) A bankruptcy restrictions undertaking shall specify a period, commencing on the date of the undertaking, for which the undertaking has effect.

(4) The period referred to in subsection (3) shall not exceed ten years.

Variation of disqualification order or undertaking.

415. (1) The Court may, on the application of the Official Receiver or a restricted person, vary a bankruptcy restrictions order or a bankruptcy restrictions undertaking.

(2) Without limiting subsection (1), an order under that subsection may

(a) reduce the period for which the order, or undertaking, is in force; or

(b) provide for the order or undertaking to cease to be in force.

(3) An application made by a restricted person for an order under subsection (1) shall be served on the Official Receiver no less than 14 days prior to the date of the hearing and the Official Receiver shall appear or be represented and is entitled to call or give evidence at the hearing.

Offence provisions.

416. A restricted person who engages in a prohibited activity commits an offence.

Official Receiver to appear on certain applications.

417. The Official Receiver shall appear and call the attention of the Court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses on the hearing of

(a) an application by the Official Receiver for a bankruptcy restrictions order; or

(b) any other application made under this Part.

Register of disqualification orders.

418. (1) The Official Receiver shall register in a Register of Bankruptcy Restrictions Orders and Undertakings to be maintained by him for the purpose

(a) each bankruptcy restrictions order and interim bankruptcy restrictions order made or bankruptcy restrictions undertaking accepted under this Part; and

(b) each variation of a bankruptcy restrictions order, an interim bankruptcy restrictions order or bankruptcy restrictions undertaking under this Part.

(2) When a bankruptcy restrictions order or undertaking ceases to be in force, the Official Receiver shall delete the entry from the Register.

(3) The Register of Bankruptcy Restrictions Orders and Undertakings shall be open to inspection on payment of such fee as may be prescribed.

(4) No person shall be construed as having knowledge that another person is a restricted person by virtue of an entry in the Register of Bankruptcy Restrictions Orders and Undertakings.

Annulment of bankruptcy order.

419. (1) Where a bankruptcy order is annulled under section 382(1)(a),

(a) any bankruptcy restrictions order, interim order or undertaking which is in force in respect of the bankrupt shall be annulled;

(b) no new bankruptcy restrictions order or interim order may be made in respect of the bankrupt; and

(c) no new bankruptcy restrictions undertaking by the bankrupt may be accepted.

(2) Where a bankruptcy order is annulled under section 382(1)(b)

(a) the annulment shall not affect any bankruptcy restrictions order, interim order or undertaking which is in force in respect of the bankrupt;

(b) the Court may make a bankruptcy restrictions order or an interim order in respect of the bankrupt on an application instituted before the annulment;

(c) the Official Receiver may accept a bankruptcy restrictions undertaking offered by the bankrupt before the annulment; and

(d) an application for a bankruptcy restrictions order may not be instituted after the annulment.

PART XVI

GENERAL PROVISIONS WITH REGARD TO INSOLVENCY PROCEEDINGS UNDER THIS ACT

Division 1 - The Creditors' Committee

Interpretation for and scope of this Division.

420. (1) In this Division, "office holder" means,

(a) in respect of a company, its administrator, its liquidator or its administrative receiver, and

(b) in respect of an individual, his bankruptcy trustee;

and a reference to an officer holder is to the office holder appointed in the insolvency proceeding in respect of which the creditors' committee is appointed.

(2) This Division applies to the establishment and operation of a creditors' committee under this Act where

(a) a company is in administration or in liquidation;

(b) an administrative receiver has been appointed in respect of a company; or

(c) a bankruptcy order has been made against an individual.

Establishment of creditors' committee.

421. (1) The creditors of a company in liquidation, administration or administrative receivership or of a bankrupt may, by resolution passed at a meeting, establish a creditors' committee,

(a) in the case of a company in administration, at any time after the approval of the administrator's proposals;

(b) in the case of a company in administrative receivership, at any time after the appointment of the administrative receiver;

(c) in the case of a company in liquidation, at any time after the appointment of the liquidator; and

(d) in the case of an individual, at any time after the bankruptcy order.

(2) A resolution to establish a creditors' committee shall also appoint the first members of the committee, each of whom shall be eligible to serve on the committee in accordance with section 423.

(3) A resolution to establish a creditors' committee in the administration, administrative receivership or liquidation of a company may only be passed

(a) at a meeting called under section 100, 147 or 179; or

(b) at a meeting requisitioned for the purpose by at least 10 per cent in value of the creditors of the company.

(4) A resolution to establish a creditors' committee in the bankruptcy of an individual may be passed at a meeting of the creditors called under section 333.

(5) Where an office holder is satisfied that a creditors' committee has been validly established he shall, within five business days of the passing of the resolution, file a notice to that effect

(a) in the case of an administrator, a liquidator appointed by the Court or a bankruptcy trustee, with the Court; or

(b) in the case of an administrative receiver or a liquidator not appointed by the Court, with the Registrar.

(6) The notice required to be filed under subsection (5) shall specify the names and addresses of the persons appointed to the creditors' committee.

(7) The creditors' committee cannot act until the relevant notice is filed by the office holder under subsection (5).

(8) The appointment of a member of a creditors' committee may be in the form of the appointment of a designated representative of the member.

Functions and powers of creditors' committee.

422. (1) The functions of a creditors' committee are

(a) to consult with the office holder about matters relating to the insolvency proceeding;

(b) to receive and consider reports of the insolvency holder;

(c) to assist the officer holder in discharging his functions; and

(d) to discharge any other functions assigned to it under this Act or the Rules.

(2) A creditors' committee may

(a) call a meeting of creditors;

(b) on giving the office holder reasonable notice, require him to provide the committee with such reports and information concerning the insolvency proceeding as the Committee reasonably requires; and

(c) on giving the office holder not less than five business days notice, require him to attend before the committee at any reasonable time to provide it with such information and explanations concerning the insolvency proceeding as it reasonably requires.

(3) Where the creditors' committee requires the attendance of the office holder at a meeting under subsection (2)(c),

(a) the notice shall be signed in writing by a majority of the members of the committee; and

(b) the meeting shall be fixed for a business day and shall be held at such time and place as the committee may agree with the office holder.

(4) The designated representative of a committee member may sign a notice under subsection (3)(a) on the member's behalf.

(5) Unless expressly permitted to do so by the Act or the Rules, a creditors' committee cannot give directions to the officer holder.

Composition of creditors' committee.

423. (1) Subject to subsection (2), a person is eligible to be a member, or the designated representative of a member, of a creditors' committee if he is an individual who has consented in writing to serve on the committee, and

(a) in the case of a member

(i) he is a creditor of the company or the bankrupt, as the case may be, or

(ii) he holds a general power of attorney granted by such a creditor; or

(b) in the case of a designated representative, he is authorized in writing by a person eligible to be a member to be his representative on the committee.

(2) A person is not eligible to be a member of the creditors' committee if his claim has been rejected for the purposes of his entitlement to vote or if he is the legal practitioner or representative of such a creditor.

(3) A creditors committee shall consist of not less than three individuals who are eligible to be members of the committee.

Resignation and termination of committee member.

424. (1) A member of a creditors' committee may resign by giving notice in writing to the office holder.

(2) The membership of a committee member is terminated if

(a) he becomes bankrupt or compounds or arranges with his creditors;

(b) he is absent from three consecutive meetings of the committee without the leave of the other members; or

(c) in the case of the designated representative of a member, his designation as a designated representative is terminated by the member he represents.

(3) A member of the committee may be removed by a resolution of creditors of which he has been given at least five business days notice, stating the object of that meeting.

Vacancies and appointment of new members.

425. (1) Where there is a vacancy in the membership of the committee, the continuing members of the committee, if not less than two in number, may continue to act.

(2) The continuing members of the committee, or where their number has fallen below two, the office holder, may appoint a person eligible under section 423 as a member of the committee to fill a vacancy.

(3) Where there is any change in the membership of the committee, the office holder shall, within five business days, file a notice specifying the members of the committee following the change,

(a) in the case of an administrator, a liquidator appointed by the Court or a bankruptcy trustee, with the Court; or

(b) in the case of an administrative receiver or a liquidator appointed by the company, with the Registrar.

(4) The notice required to be filed under subsection (3) shall specify the names and addresses of the members of the creditors' committee.

Proceedings of creditors' committee.

426. The Rules shall provide for the proceedings of a creditors' committee.

Expenses of members.

427. (1) Subject to subsection (2), the reasonable travelling expenses of members directly incurred in attending a meeting of the creditors' committee shall be paid by the office holder out of the assets of the company, or the bankrupt's estate, as an expense of the insolvency proceeding.

(2) Where the office holder is of the opinion that a meeting of the creditors' committee called by a member was unreasonably called he may refuse to pay expenses under subsection (1).

(3) Where the office holder refuses to pay reasonable travelling expenses under subsection (2), the creditors may resolve that they should be paid and upon the creditors passing such a resolution, they shall be paid by the office holder out of the assets of the company, or the bankrupt's estate, as an expense of the insolvency proceeding.

Members dealing with company.

428. (1) In the case of the administration or administrative receivership, membership of the creditors' committee does not prevent a person from dealing with the company while the officer holder is acting, provided that any transactions in the course of such dealings are entered into in good faith and for value.

(2) The Court may, on the application of any person interested, set aside a transaction which appears to it to be contrary to the requirements of this section, and may give such consequential directions as it considers fit for compensating the company for any loss which it may have incurred in consequence of the transaction.

Formal defects.

429. The acts of a creditors' committee are valid notwithstanding any defect in the appointment, election or qualifications of any member of the committee or in the formalities of its establishment.

Division 2 - Remuneration

Remuneration of administrator, liquidator or bankruptcy trustee.

430. (1) The remuneration of an administrator, liquidator or bankruptcy trustee is fixed

(a) by the creditors' committee, if any; or

(b) by the Court on an application made under subsection (2).

(2) An administrator, liquidator or bankruptcy trustee may apply to the Court to fix his remuneration, or to fix an interim payment under section 433, if

(a) no creditors' committee is appointed;

(b) the creditors' committee fails, for whatever reason, to fix his remuneration, or an interim payment; or

(c) he considers that the remuneration, or an interim payment, fixed by the creditors' committee

(i) is insufficient,

(ii) is not in an appropriate currency, or

(iii) is on unacceptable terms.

(3) Not less than 14 days notice of an application under subsection (2) shall be given

(a) in the case of an administrator, to the company in administration;

(b) in the case of a bankruptcy trustee, to the bankrupt; and

(c) in any other case

(i) to each member of the creditors' committee, or

(ii) if there is no creditors' committee, to such creditors as the Court may direct.

(4) The members of the creditors' committee or, if there is no creditors' committee, the creditors given notice of the hearing may appear and be heard at the hearing of an application made under subsection (2).

(5) On the hearing of an application under subsection (2), the Court shall fix the remuneration of the administrator, liquidator or bankruptcy trustee at such amount as it considers appropriate.

(6) In this section, "liquidator" does not include a provisional liquidator.

Application by creditors for reduction of remuneration.

431. (1) Where the creditors' committee has fixed the remuneration of an administrator, liquidator or bankruptcy trustee, a creditor may, with the concurrence of at least 25 per cent in value of the creditors, including himself, apply to the Court for an order reducing the remuneration fixed on the grounds that it is excessive.

(2) On an application made under subsection (1), the Court may

(a) if it considers that the applicant has not shown sufficient cause for a reduction, dismiss the application; or

(b) set a venue for the application to be heard.

(3) An application shall not be dismissed under subsection (2)(a) unless the Court has given the applicant the opportunity to attend the Court for an ex parte hearing, of which he has been given at least seven days notice.

(4) An applicant for an order under subsection (1) shall give the administrator, liquidator or bankruptcy trustee not less than 14 days notice of the date, time and place set by the Court under subsection (2).

(5) If it considers that the remuneration of the administrator, liquidator or bankruptcy trustee fixed by the creditors' committee is excessive, the Court shall fix the remuneration to such amount as it considers appropriate.

General principles to be applied in fixing remuneration.

432. (1) This section applies

(a) to the fixing of the remuneration of an administrator, liquidator or bankruptcy trustee by a creditors committee under section 430;

(b) to the fixing of the remuneration of an administrator, liquidator or bankruptcy trustee by the Court under section 430(5);

(c) to the fixing of the remuneration of a provisional liquidator by the Court under section 172;

(d) to the fixing of the remuneration of a receiver by the Court under section 134(2) or section 134(3);

(e) to the fixing of the remuneration of a supervisor or interim supervisor by the Court under section 323; and

(f) to the fixing of the remuneration of an administrator, liquidator or bankruptcy trustee by the Court under 431.

(2) In this section and section 28,

"fixing remuneration" includes fixing the currency of payment;

"insolvency proceeding" means the insolvency proceeding in respect of which an insolvency practitioner is appointed; and

"insolvency practitioner" means administrator, liquidator, bankruptcy trustee, receiver, supervisor or interim supervisor, as the case may be.

(3) Subject to subsection (4), the remuneration of an insolvency practitioner shall be fixed by reference to the time properly given by him and his staff in carrying out his duties in the insolvency proceeding.

(4) Where the insolvency practitioner so requests and the creditors' committee or the Court considers that the circumstances justify it, the remuneration of an insolvency practitioner may be fixed in whole or in part as a percentage of the value of the assets realised and the value of the assets distributed, or as a percentage of either.

(5) When fixing the remuneration of an insolvency practitioner in the circumstances specified in subsection (1) or sanctioning an interim payment under section 433(3), the creditors' committee or the Court

(a) shall take into account

(i) the need for the remuneration to be fair and reasonable,

(ii) the time properly spent by the insolvency practitioner and his staff in carrying out his duties,

(iii) the complexity of the insolvency proceeding and whether the insolvency practitioner has been required to take any responsibility of an exceptional kind or degree,

(iv) the effectiveness with which the insolvency practitioner is carrying out, or has carried out, his duties,

(v) the value and nature of the assets with which the insolvency practitioner has had to deal,

(vi) the hourly rates charged by other insolvency practitioners, both within and outside the Virgin Islands, in undertaking similar work, and

(vii) whether any expenses which he incurred were properly incurred; and

(b) may take into account

(i) the commercial and personal risks accepted by the office holder,

(ii) the time spent by the insolvency practitioner and his staff outside the Virgin Islands and the amount of travelling required,

(iii) the standards and practice used for assessing remuneration in jurisdictions other than the Virgin Islands.

Time for fixing remuneration and interim payments.

433. (1) The remuneration of an office holder shall be fixed by the creditors' committee or the Court after the conclusion of the insolvency proceeding.

(2) In fixing the remuneration of an office holder, the creditors' committee or the Court shall take account of any interim payment made under subsection (3).

(3) Notwithstanding subsection (1), a creditors' committee or the Court may at any time set an interim payment to be made to the insolvency practitioner on account of his remuneration.

(4) An interim payment may be made under subsection (2) subject to such conditions as the creditors' committee or the Court considers appropriate.

PART XVII

NETTING AND MARKET CONTRACTS

Interpretation for sections 434 and 435.

434. (1) In this section and section 435,

"financial contract" means a contract of a type specified in the Rules as a financial contract;

"master netting agreement" has the meaning specified in subsection (4);

"multibranch netting agreement" has the meaning specified in subsection (5);

"netting" means the termination of financial contracts, the determination of the termination values of those contracts and the set off of the termination values so determined so as to arrive at a net amount due, if any, by one party to the other where each such determination and set off is effected in accordance with the terms of a netting agreement between those parties;

"netting agreement" has the meaning specified in subsection (2);

"party" means a person constituting one of the parties to an agreement.

(2) A netting agreement is an agreement between two parties only, in relation to present or future financial contracts between them the provisions of which include, the termination of those contracts for the time being in existence, the determination of the termination values of those contracts and the set off of the termination values so determined so as to arrive at a net amount due.

(3) A netting agreement may provide for

(a) a guarantee to be given to one party on behalf of the other party solely to secure the obligation of either party in respect of the financial contracts concerned; and

(b) the set off against the net amount due under subsection (2) and that amount only of

(i) any money provided solely to secure the obligation of either party in respect of the financial contracts concerned,

(ii) the proceeds of the enforcement and realisation of any collateral in the form of

(I) security interests or other assets provided, or

(II) money, security interests or other assets provided solely to secure the obligation of the guarantor under paragraph (a),

solely to secure the obligation of either party in respect of the financial contracts concerned;

(4) A master netting agreement is an agreement between two parties only, in relation to netting agreements between them

(a) the provisions of which include the set off of the net amounts due under two or more netting agreements between them; and

(b) which may provide for a guarantee to be given to one party on behalf of the other party solely to secure the obligation of either party in respect of the netting agreements concerned; and

(c) which may provide for the set off against the net amount due under paragraph (a) and that amount only of

(i) any money provided solely to secure the obligation of either party in respect of the netting agreements concerned,

(ii) the proceeds of the enforcement and realisation of any collateral in the form of

(I) security interests or other assets provided, or

(II) money, security interests or other assets provided solely to secure the obligation of the guarantor under paragraph (b),

solely to secure the obligation of either party in respect of the netting agreements concerned.

Enforcement of netting agreements etc.

435. (1) Notwithstanding anything contained in this Act or the Rules or in any rule of law relating to insolvency,

(a) the provisions relating to netting, the set off of money provided by way of security, the enforcement of a guarantee and the

enforcement and realisation of collateral and the set off of the proceeds thereof, as contained within a netting agreement or a guarantee provided for in such an agreement shall be legally enforceable against a party to the agreement and, where applicable, against a guarantor or other person providing security, and

(b) the provisions relating to set off of the net amounts due under netting agreements, the set off of money provided by way of security, the enforcement of a guarantee and the enforcement and realisation of collateral and the set off of the proceeds thereof, as contained within a master netting agreement or a guarantee provided for in such an agreement shall be legally enforceable against a party to the agreement and, where applicable, against a guarantor or other person providing security.

(2) Nothing in subsection (1)

(a) prevents the application of this Act, any other enactment or rule of law which would prevent the legal enforceability of netting, set off, enforcement and realisation in any particular case, on the grounds of fraud or misrepresentation or on any similar ground; or

(b) permits the enforceability of netting, set off, enforcement and realisation if any provision of an agreement between the two parties concerned would make netting, set off, enforcement and realisation void whether because of fraud or misrepresentation or any similar ground.

PART XVIII

CROSS-BORDER INSOLVENCY

GENERAL PROVISIONS

Purpose and scope of this Part.

436. (1) The purpose of this Part is to provide effective mechanisms for dealing with cases of cross-border insolvency so as to promote the objectives of

(a) cooperation between

(i) the Court and insolvency administrators of the Virgin Islands; and

(ii) the courts and other competent authorities of foreign countries involved in cases of cross-border insolvency;

(b) greater legal certainty for trade and investment;

(c) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including the debtor;

(d) protection and maximisation of the value of the debtor's assets; and

(e) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

(2) This Part applies where

(a) assistance is sought in the Virgin Islands by a foreign court or a foreign representative in connection with a foreign proceeding;

(b) assistance is sought in a foreign country in connection with a Virgin Islands insolvency proceeding;

(c) a foreign proceeding and a Virgin Islands insolvency proceeding in respect of the same debtor are taking place concurrently; or

(d) creditors or other interested persons in a designated foreign country have an interest in requesting the commencement of, or participating in, a Virgin Islands insolvency proceeding .

(3) This Part does not apply to a regulated person who holds, or at any time has held, a prescribed financial services licence of a type designated by the Governor for the purposes of this section by notice published in the *Gazette*.

Interpretation for this Part.

437. (1) In this Part,

"designated foreign country" means a country or territory designated by the Governor for the purposes of this Part by notice published in the *Gazette*;

"establishment" means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods or services.

"foreign ancillary proceeding" means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment within the meaning of subparagraph (f) of this article;

"foreign court" means a judicial or other authority competent to control or supervise a foreign proceeding;

"foreign main proceeding" means a foreign proceeding taking place in the country where the debtor has the centre of his main interests;

"foreign proceeding" means a collective judicial or administrative proceeding in a designated foreign country, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation, liquidation or bankruptcy;

"foreign representative" means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's property or affairs or to act as a representative of the foreign proceeding;

"insolvency officer" means the Official Receiver, a liquidator, provisional liquidator, bankruptcy trustee, administrator, receiver, supervisor or interim supervisor;

"Virgin Islands insolvency proceeding" means a collective judicial or administrative proceeding, including an interim proceeding, pursuant to this Act, or to any other enactment in the Virgin Islands, relating

(a) to the bankruptcy, liquidation, administration or receivership of a debtor; or

(b) to the reorganisation of a debtor's affairs;

where, in all cases, the property of the debtor is or will be realised for the benefit of secured or unsecured creditors.

(2) In the interpretation of this Part, the Court shall have regard to its international origin and to the need to promote an application of this Part that is consistent with the application of similar laws adopted by foreign jurisdictions.

International obligations of the Virgin Islands.

438. To the extent that this Part conflicts with an obligation of the Virgin Islands arising out of any treaty or other form of agreement to which the Virgin Islands is a party with one or more other countries, the requirements of the treaty or agreement prevail.

Public policy exception.

439. Nothing in this Part prevents the Court from refusing to take an action governed by this Part if the action would be contrary to the public policy of the Virgin Islands.

Additional assistance.

440. Subject to section 443, nothing in this Part limits the power of the Court or an insolvency officer to provide additional assistance to a foreign representative where permitted under any other Part of this Act or under any other enactment or rule of law of the Virgin Islands.

Application under this Part.

441. An application under this Part shall be made to the Court in accordance with the Rules.

Authorization of insolvency officer to act in a foreign country.

442. The Court may, on the application of an insolvency officer, authorize him to act in a foreign country on behalf of a Virgin Islands insolvency proceeding as permitted by the applicable foreign law.

ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO COURTS IN THE VIRGIN ISLANDS

Right of direct access.

443. (1) A foreign representative is entitled to apply to the Court under section 448 for recognition of the foreign proceeding in respect of which he is appointed.

(2) Subject to section 453, a foreign representative may not be granted comity or cooperation by the Court unless the foreign proceeding in respect of which he is appointed has been granted recognition by the Court.

(3) Upon recognition being granted to the foreign proceeding in respect of which a foreign representative is appointed, he may apply directly to the Court for comity or cooperation or for any other relief under this Part.

Limited jurisdiction.

444. The sole fact that a foreign representative makes an application under section 448 does not subject the foreign representative to the jurisdiction of the Court for any other purpose.

Commencement of and participation in a Virgin Islands insolvency proceeding by foreign representative.

445. A foreign representative, upon the recognition of the foreign proceeding in respect of which he is appointed, may

(a) apply to commence a Virgin Islands insolvency proceeding if the conditions for commencing such a proceeding are otherwise met; and

(b) participate in a Virgin Islands insolvency proceeding regarding the debtor.

Access of foreign creditors to a Virgin Islands proceeding.

446. (1) Subject to subsection (2), foreign creditors have the same rights regarding the commencement of, and participation in, a Virgin Islands insolvency proceeding as creditors in the Virgin Islands.

(2) Subsection (1) does not affect the priority of claims in a Virgin Islands insolvency proceeding or the exclusion of foreign penal, revenue and social security claims from such a proceeding.

Notification to foreign creditors of a Virgin Islands insolvency proceeding.

447. (1) Whenever under a Virgin Islands insolvency proceeding notification is to be given to creditors in the Virgin Islands, such notification shall also be given to the known creditors that do not have addresses in the Virgin Islands.

(2) Where the address of any creditor is not known, the Court may order that appropriate steps be taken with a view to notifying that creditor.

(3) Notification to creditors under subsection (1) shall be made to the foreign creditors individually, unless the Court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other, similar formality is required.

(4) When notification of the commencement of a Virgin Islands insolvency proceeding is to be given to foreign creditors, the notification shall

(a) indicate the time period for submitting claims and specify the place for their submission;

(b) indicate whether secured creditors need to submit their secured claims; and

(c) contain any other information required to be included in such a notification to creditors pursuant to the law of the Virgin Islands and any order of the Court.

(5) The Rules and any order of the Court as to notice or the submission of a claim time shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

RECOGNITION OF FOREIGN PROCEEDING AND RELIEF

Application for recognition of foreign proceeding.

448. (1) A foreign representative may apply to the Court for recognition of the foreign proceeding in which the foreign representative has been appointed.

(2) An application for recognition shall be accompanied by

(a) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or

(b) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

(c) in the absence of evidence referred to in paragraphs (a) and (b), any other evidence acceptable to the Court of the existence of the foreign proceeding and of the appointment of the foreign representative.

(3) An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.

(4) If the documents referred to in subsection (2)(a) and (b) are not in English, a certified translation they shall be accompanied by a certified translation of the documents into English.

(5) The Court may require a certified translation of any other documents supplied in support of the application for recognition into English.

Presumptions concerning recognition.

449. (1) If the decision or certificate referred to in section 448(2) indicates that the proceeding is a foreign proceeding as defined in section 437(1)and that the person or body is a foreign representative as defined in section 437(1), the Court is entitled to so presume.

(2) The Court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalised.

(3) In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the centre of the debtor's main interests.

Recognition of foreign proceedings.

450. (1) Subject to section 439, a foreign proceeding shall be recognised if

(a) the proceeding is a foreign proceeding within the meaning of section 437(1);

(b) the person or body applying for recognition is a foreign representative within the meaning of section 437(1);

(c) the application meets the requirements of section 448(2); and

(d) the application has been made in accordance with this Part and the Rules.

(2) The foreign proceeding shall be recognised

(a) as a foreign main proceeding if it is taking place in the country where the debtor has the centre of his main interests; or

(b) as a foreign ancillary proceeding if the debtor has an establishment in the foreign country.

(3) An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time.

(4) The provisions of this Part do not prevent the modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist.

Subsequent information.

451. After the filing of an application for recognition of a foreign proceeding, the foreign representative shall inform the Court promptly of

(a) any substantial change in the status of the recognised foreign proceeding or the status of the foreign representative's appointment; and

(b) any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Interim relief.

452. (1) Where an application for recognition of a foreign proceeding has been filed but not yet determined or withdrawn, the Court may, on the application of the foreign representative concerned, if it is satisfied that relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant such relief of a provisional nature as it considers appropriate, including

(a) staying execution against the debtor's assets;

(b) entrusting the administration or realisation of all or part of the debtor's assets located in the Virgin Islands to the foreign representative or to another person designated by the Court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;

(c) any relief mentioned in section 454(1)(c), (d) and (f).

(2) The foreign representative in whose favour an order is made under subsection (1) shall notify the debtor of the order as soon as practicable or within such time as the Court may order.

(3) Unless extended under section 454(1)(f), the relief granted under this article terminates when the Court determines the application for recognition.

(4) The Court may refuse to grant relief under this section if such relief would interfere with the administration of a foreign main proceeding.

Effects of recognition of foreign main proceeding.

453. (1) Upon recognition of a foreign proceeding that is a foreign main proceeding,

(a) commencement or continuation of individual actions or individual proceedings concerning the property of the debtor within the Virgin Islands, rights, obligations or liabilities is stayed;

(b) execution against the debtor's property within the Virgin Islands is stayed; and

(c) the right to transfer, encumber or otherwise dispose of any property of the debtor within the Virgin Islands is suspended.

(2) Notwithstanding subsection (1), the Court may, on the application of any creditor or interested person, order that the stay or suspension does not apply in respect of any particular action or proceeding or in respect of any particular property, rights, obligation or liability.

(3) An order under subsection (2) may be made subject to such terms as it considers fit.

(4) Subsection (1)(a) does not affect the right to commence individual actions or proceedings to the extent necessary to preserve a claim against the debtor.

(5) Subsection (1) does not affect the right to request the commencement of a Virgin Islands insolvency proceeding or the right to file claims in such a proceeding.

Relief that may be granted upon recognition of foreign proceeding.

454. (1) Upon recognition of a foreign proceeding, whether main or ancillary, where necessary to protect the assets of the debtor or the interests of the creditors, the Court may, at the request of the foreign representative, grant any appropriate relief, including

(a) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's property, rights, obligations or liabilities, to the extent they have not been stayed under section 453(1)(a);

(b) staying execution against the debtor's property to the extent it has not been stayed under section 453(1)(b);

(c) suspending the right to transfer, encumber or otherwise dispose of any property of the debtor to the extent this right has not been suspended under section 453(1)(c);

(d) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

(e) entrusting the administration or realisation of all or part of the debtor's assets located in Virgin Islands to the foreign representative or another person designated by the Court;

(f) extending relief granted under section 452(1);

(2) Upon recognition of a foreign proceeding, whether main or ancillary, the Court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's property located in the Virgin Islands to the foreign representative or another person designated by the Court, provided that the Court is satisfied that the interests of creditors in the Virgin Islands are adequately protected.

(3) In granting relief under this section to a representative of a foreign ancillary proceeding, the Court shall be satisfied that the relief relates to property that, under the law of the Virgin Islands, should be administered in the foreign ancillary proceeding or concerns information required in that proceeding.

Protection of creditors and other interested persons.

455. (1) In granting or denying relief under section 452 or 454, or in modifying or terminating relief under subsection (3), the Court shall be satisfied that the interests of the creditors and other interested persons, including the debtor, are adequately protected.

(2) The Court may subject relief granted under section 452 or 454 to such conditions as it considers appropriate, including the giving of any security interest or the filing of any bond.

(3) The Court may, at the request of the foreign representative or a person affected by relief granted under section 452 or 454, or at its own motion, modify or terminate the relief.

Actions to avoid acts detrimental to creditors.

456. (1) Subject to subsection (2), upon recognition of a foreign proceeding, the foreign representative shall have power to apply to the Court for an order under section 249 or 405, as the case may be.

(2) The Court shall not make an order under section 249 or 405 on the application of the foreign representative of a recognised foreign proceeding unless it is satisfied that,

(a) in the case of an application under section 249, the foreign representative has roles and functions that are equivalent or broadly similar to the roles and functions of a liquidator appointed under this Act; and

(b) in the case of an application under section 405, the foreign representative has roles and functions that are equivalent or broadly similar to the roles and functions of a bankruptcy trustee appointed under this Act.

(3) When the foreign proceeding is a foreign ancillary proceeding, the Court shall be satisfied that the action relates to property that, under the law of the Virgin Islands, should be administered in the foreign ancillary proceeding.

Intervention by foreign representative in proceedings in the Virgin Islands.

457. Upon recognition of a foreign proceeding, the foreign representative may, if the requirements of the law of the Virgin Islands are met, intervene in any proceedings in which the debtor is a party.

COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

Cooperation and direct communication between court of the Virgin Islands and foreign courts or foreign representatives.

458. (1) In matters referred to in section 436, the Court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through an insolvency administrator.

(2) The Court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties to notice and participation at hearings.

Cooperation and direct communication between the insolvency administrator and foreign courts or foreign representatives.

459. (1) In matters referred to in section 436, an insolvency administrator shall, in the exercise of his functions and subject to the supervision of the Court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

(2) Subject to section 442, the insolvency administrator is entitled, in the exercise of his functions and subject to the supervision of the Court, to communicate directly with foreign courts or foreign representatives.

Forms of cooperation.

460. Cooperation referred to in sections 458 and 459 may be implemented by any appropriate means, including

(a) appointment of a person or body to act at the direction of the Court;

(b) communication of information by any means considered appropriate by the Court;

(c) coordination of the administration and supervision of the debtor's property and affairs;

(d) approval or implementation by courts of agreements concerning the coordination of proceedings;

(e) coordination of concurrent proceedings regarding the same debtor.

CONCURRENT PROCEEDINGS

Commencement of a Virgin Islands insolvency proceeding after recognition of foreign main proceeding.

461. After recognition of a foreign main proceeding, a Virgin Islands insolvency proceeding may be commenced only if the debtor has assets in the Virgin Islands and the effects of the Virgin Islands proceeding shall be restricted to the assets of the debtor that are located in the Virgin Islands and, to the extent necessary to implement cooperation and coordination under sections 458, 459 and 460, to other property of the debtor that, under the law of the Virgin Islands, should be administered in the recognised proceeding.

Coordination of a Virgin Islands insolvency proceeding and foreign proceeding.

462. Where a foreign proceeding and a Virgin Islands insolvency proceeding are taking place concurrently regarding the same debtor, the Court shall seek cooperation and coordination under sections 458, 459 and 460, and the following shall apply:

(a) when the Virgin Islands insolvency proceeding is taking place at the time the application for recognition of the foreign proceeding is filed,

(i) any relief granted under section 452 or 454 shall be consistent with the Virgin Islands insolvency proceeding ; and

(ii) if the foreign proceeding is recognized in the Virgin Islands as a foreign main proceeding, section 453 does not apply;

(b) when the Virgin Islands insolvency proceeding commences after recognition, or after the filing of the application for recognition, of the foreign proceeding,

(i) any relief in effect under section 452 or 454 shall be reviewed by the Court and shall be modified or terminated if inconsistent with the Virgin Islands insolvency proceeding; and

(ii) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 453(1) shall be modified or terminated pursuant to section 453(2) if inconsistent with the Virgin Islands insolvency proceeding;

(c) in granting, extending or modifying relief granted to a representative of a foreign ancillary proceeding, the Court shall be satisfied that the relief relates to property that, under the law of the Virgin Islands , should be administered in the foreign ancillary proceeding or concerns information required in that proceeding.

Coordination of more than one foreign proceeding.

463. In matters referred to in section 436, in respect of more than one foreign proceeding regarding the same debtor, the Court shall seek cooperation and coordination under sections 458, 459 and 460 and the following shall apply:

(a) any relief granted under section 452 or 454 to a representative of a foreign ancillary proceeding after recognition of a foreign main proceeding shall be consistent with the foreign main proceeding;

(b) if a foreign main proceeding is recognised after recognition, or after the filing of an application for recognition, of a foreign ancillary proceeding, any relief in effect under section 452 or 454 shall be reviewed by the Court and shall be modified or terminated if inconsistent with the foreign main proceeding;

(c) if, after recognition of a foreign ancillary proceeding, another foreign ancillary proceeding is recognised, the Court shall grant, modify or terminate relief for the purpose of facilitating coordination of the proceedings.

Presumption of insolvency based on recognition of foreign main proceeding.

464. In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a Virgin Islands insolvency proceeding proof that the debtor is insolvent.

Rule of payment in concurrent proceedings.

465. Without prejudice to secured claims or rights *in rem*, a creditor who has received part payment in respect of his claim in a proceeding pursuant to a law relating to insolvency in a foreign country may not receive a payment for the same claim in a Virgin Islands insolvency proceeding regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.

PART XIX

ORDERS IN AID OF FOREIGN PROCEEDINGS

Interpretation for this Part.

466. (1) In this Part,

"foreign proceeding" means a collective judicial or administrative proceeding in a relevant foreign country, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation, liquidation or bankruptcy and "debtor" shall be construed accordingly;

"foreign representative" means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganisation or the liquidation of the debtor's property or affairs or to act as a representative of the foreign proceeding;

"insolvency officer" means the Official Receiver, a liquidator, provisional liquidator, bankruptcy trustee, administrator, receiver, supervisor, or interim supervisor;

"relevant foreign country" means a country, territory or jurisdiction designated by the Commission as a relevant foreign country for the purposes of this Part; and

"Virgin Islands insolvency proceeding" means a collective judicial or administrative proceeding, including an interim proceeding, pursuant to this Act, or to any other enactment in the Virgin Islands, relating

(i) to the bankruptcy, liquidation, administration or receivership of a debtor; or

(ii) to the reorganisation of a debtor's affairs;

where, in all cases, the property of the debtor is or will be realised for the benefit of secured or unsecured creditors.

(2) Notwithstanding subsection (1), a country or territory that is designated as a designated country for the purposes of Part **XVIII** ceases to be a relevant foreign country from the date of its designation as a designated country.

(3) The designation of a country for the purposes of Part **XVIII** does not affect the validity of any order made under this Part.

Order in aid of foreign proceeding.

467. (1) For the purposes of this section "property" means property that is subject to or involved in the foreign proceeding in respect of which the foreign representative is authorized.

(2) A foreign representative may apply to the Court for an order under subsection (3) in aid of the foreign proceeding in respect of which he is authorized.

(3) Subject to section 468, upon an application under subsection (1), the Court may

(a) restrain the commencement or continuation of any proceedings, execution or other legal process or the levying of any distress against a debtor or in relation to any of the debtor's property;

(b) subject to subsection (4), restrain the creation, exercise or enforcement of any right or remedy over or against any of the debtor's property;

(c) require any person to deliver up to the foreign representative any property of the debtor or the proceeds of such property;

(d) make such order or grant such relief as it considers appropriate to facilitate, approve or implement arrangements that will result in a co-ordination of a Virgin Islands insolvency proceeding with a foreign proceeding;

(e) appoint an interim receiver of any property of the debtor for such term and subject to such conditions as it considers appropriate;

(f) authorize the examination by the foreign representative of the debtor or of any person who could be examined in a Virgin Islands insolvency proceeding in respect of a debtor;

(g) stay or terminate or make any other order it considers appropriate in relation to a Virgin Islands insolvency proceeding; or

(h) make such order or grant such other relief as it considers appropriate.

(4) An order under subsection (3) shall not affect the right of a secured creditor to take possession of and realise or otherwise deal with property of the debtor over which the creditor has a security interest.

(5) In making an order under subsection (3), the Court may apply the law of the Virgin Islands or the law applicable in respect of the foreign proceeding.

Matters to be considered by Court in determining application under section 467.

468. (1) In determining an application under section 467, the Court shall be guided by what will best ensure the economic and expeditious administration of the foreign proceeding to the extent consistent with

(a) the just treatment of all persons claiming in the foreign proceeding;

(b) the protection of persons in the Virgin Islands who have claims against the debtor against prejudice and inconvenience in the processing of claims in the foreign proceeding;

(c) the prevention of preferential or fraudulent dispositions of property subject to the foreign proceeding, or the proceeds of such property;

(d) the need for distributions to claimants in the foreign proceedings to be substantially in accordance with the order of distributions in a Virgin Islands insolvency; and

(e) comity.

(2) An order under section 467 shall not, without the consent of the person concerned,

(a) affect the right of any creditor of the debtor to benefit from set-off as provided for in section 150; or

(b) result in a person who is a preferential creditor of the debtor, or who in a Virgin Islands insolvency proceeding in respect of the debtor would be a preferential creditor, receiving less than he would receive in a Virgin Islands insolvency proceeding .

(3) The Court shall not make an order under 467 that is contrary to the public policy of the Virgin Islands.

Limitation on effect of application under this Part.

469. (1) Subject to subsection (2), an application to the Court by a foreign representative under section 467 does not submit the foreign representative to the jurisdiction of the Court for any other purpose except with regard to the costs of the proceedings.

(2) The Court may make an order under this Part conditional on the compliance by the foreign representative with any other order of the Court.

Additional assistance.

470. Subject to section 443, nothing in this Part limits the power of the Court or an insolvency officer to provide additional assistance to a foreign representative where permitted under any other Part of this Act or under any other enactment or rule of law of the Virgin Islands.

Application under this Part.

471. An application by a foreign representative under this Part shall be made to the Court in accordance with the Rules.

Authorization of insolvency officer to act in foreign country.

472. The Court may, on the application of an insolvency officer, authorize him to act in a foreign country on behalf of a Virgin Islands insolvency proceeding as permitted by the applicable foreign law.

PART XX

INSOLVENCY PRACTITIONERS

LICENSING

Interpretation for this Part.

473. In this Part

"Code of Practice" means the Code of Practice that the Commission is empowered to issue under section 487(1);

"Commission" means the Financial Services Commission established under the Financial Services Commission Act, 2001;

"licence" means a licence to act as an insolvency practitioner granted under section 476;

"licensee" means a licensed insolvency practitioner; and

"overseas insolvency practitioner" means an individual resident outside the Virgin Islands appointed to act as an insolvency practitioner under section 483; and

"Regulations" means the Insolvency Practitioners Regulations made under section 486.

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Prohibition on acting as insolvency practitioner without a licence.

474. (1) For the purposes of this Act, a person acts as an insolvency practitioner by acting as

(a) the administrator or administrative receiver of a company;

(b) the liquidator or provisional liquidator of a company or a foreign company;

(c) the interim supervisor under a proposal for an arrangement;

(d) the supervisor of an arrangement; or

(e) the bankruptcy trustee of an individual.

(2) Subject to subsection (3), no person shall act as an insolvency practitioner unless he holds a licence issued under section 476 that is not suspended under section 479.

(3) Subsection (2) does not apply

(a) to the Official Receiver; or

(b) to an overseas insolvency practitioner whilst he is acting jointly with a licensee or with the Official Receiver.

(4) A person who contravenes subsection (2) commits an offence.

Application for licence.

475. (1) An individual resident in the Virgin Islands may apply to the Commission for a licence to act as an insolvency practitioner.

(2) An application under subsection (1) shall

(a) contain the information and be in the form prescribed; and

(b) be accompanied by the documentation prescribed.

(3) The Commission may require an applicant for a licence to furnish it with such other documentation and information as it considers necessary to determine the application.

Issue of licence.

476. (1) The Commission may issue a licence to the applicant if it is satisfied

(a) that the applicant

(i) is an individual resident in the Virgin Islands who is fit and proper and qualified to act as an insolvency practitioner,

(ii) satisfies the requirements of this Act in respect of the application and will, upon issuance of the licence, be in compliance with this Act and the Regulations, and

(iii) is not disqualified from holding a licence under section 477; and

(b) that issuing the licence is not against the public interest.

(2) A licence may be issued under subsection (1) subject to such terms and conditions as the Commission considers fit.

(3) The Commission shall not be required to disclose to an applicant the reasons for a decision under this section.

(4) The Commission may, upon giving reasonable notice to the licensee

(a) vary or cancel any terms or conditions imposed under subsection (1); or

(b) impose new terms or conditions.

(5) The Commission shall publish the issuance of a licence under this section in the *Gazette*.

Persons disqualified from holding a licence.

477. An individual is disqualified from holding a licence if

(a) he is a bankrupt; or

(b) he is a disqualified person within the meaning of section 260(4).

CONTROL OF LICENSEES AND ENFORCEMENT

Production of accounts and records.

478. (1) The Commission may, at any time during or after the completion of an insolvency proceeding, require a licensee appointed in respect of the proceeding to produce for inspection, at such place as he may specify

(a) his records and accounts in respect of the proceeding; and

(b) any reports that he has prepared in respect of the proceeding.

(2) The Commission may cause the accounts and records produced to him under subsection (1) to be audited.

(3) The licensee shall give the Commission such further information, explanations and assistance in relation to the records, accounts and reports as the Commission may require.

(4) A licensee who contravenes this section commits an offence.

Suspension and revocation of licence.

479. (1) The Commission shall suspend or revoke the licence of a licensee if

(a) in the opinion of the Commission, the licensee is no longer a fit and proper person to hold a licence; or

(b) the licensee is disqualified from holding a licence.

(2) The Commission may suspend or revoke the licence of a licensee if the licensee

(a) is in breach of any condition of his licence;

(b) has failed to comply with his obligations under section 478 or section 481(1);

(c) has provided the Commission with any false, inaccurate or misleading information, whether on making application for a licence or subsequent to the issue of the licence;

(d) has committed an offence under this Act; or

(e) has failed to pay the prescribed annual fee payable within six weeks of the date upon which it fell due for payment.

(3) The Commission may revoke the licence of a licensee if requested to do so by the licensee.

(4) Subject to subsection (5), the period of suspension of a licence under subsection (1) shall not exceed 30 days.

(5) If it is satisfied that it is in the public interest to do so, the Court may, on the application of the Commission, extend the period of suspension of a licence under this section for one or more further periods not exceeding 30 days each.

(6) Before suspending or revoking a licence under subsections (1) or (2), the Commission shall give written notice to the licensee stating

(a) the grounds upon which it intends to revoke or suspend the licence; and

(b) that unless the licensee, by written notice filed with the Commission, shows good reason why its licence should not be revoked or suspended, the licence will be revoked or suspended, as the case may be, on a date not less than 14 days after the date of the notice.

(7) Where the Commission revokes or suspends a licence under this section, it shall send a written notice to the licensee stating

(a) that the licence has been revoked or suspended, as the case may be; and

(b) the grounds upon which and the date from which the licence has been revoked or suspended.

(8) Where the Commission revokes or suspends a licence under this section, it shall cause notice of the revocation or suspension to be published in the *Gazette*.

Right to make representations.

480. (1) A licensee who receives a notice given under 479(6) may, within 14 days of the date of the notice, make written representations to the Commission.

(2) The Commission shall consider the representations made to it under subsection (1) in determining whether to suspend or revoke the licence.

OBLIGATIONS OF LICENSEES

Filing of returns and other documents.

481. A licensee shall file with the Commission such returns and other documents as may be specified in the Regulations or the Code of Practice.

ELIGIBLE INSOLVENCY PRACTITIONERS

Eligible insolvency practitioner.

482. (1) A person is eligible to act as an insolvency practitioner in relation to a company, a foreign company or an individual if

(a) he is a licensed insolvency practitioner;

(b) he has given his written consent to act in the prescribed form;

(c) he is not disqualified from holding a licence under section 477;

(d) he is not disqualified from acting

(i) in the case of a company or a foreign company, under subsection (2), or

(ii) in the case of an individual, under subsection (3); and

(e) there is in force such security for the proper performance of his functions as may be specified in the Regulations.

(2) A person is disqualified from acting as an insolvency practitioner in respect of a company and a foreign company if he is, or at any time in the previous three years has been

(a) the auditor of the company or an employee of such auditor; or

(b) a director of the company.

(3) An insolvency practitioner is disqualified from acting as an insolvency practitioner in respect of an individual if he is connected to the individual within the meaning of section 5(3).

Appointment of overseas insolvency practitioner.

483. Notwithstanding any other provision of this Act, an individual resident outside the Virgin Islands may be appointed to act as an insolvency practitioner jointly with a licensee or the Official Receiver if

(a) where he is appointed by the Court, the Court, or in any other case the person or persons appointing him, is or are satisfied that

(i) he has sufficient qualifications and experience to act in the insolvency proceeding in respect of which the appointment is made,

(ii) he has given his written consent to act in the prescribed form,

(iii) he is not disqualified from holding a licence under section 477,

(iv) he is not disqualified from acting in the case of a company or a foreign company, under subsection 482(2) or in the case of an individual, under subsection 482(3),

(v) there is in force such security for the proper performance of his functions as may be specified in the Regulations; and

(b) prior written notice of his appointment has been given to the Commission.

Commission's powers with regard to appointment of overseas insolvency practitioner.

484. (1) Where an application is made to the Court for the appointment of an overseas insolvency practitioner to act as insolvency practitioner, the Commission may appear and be heard at the hearing of the application for the purpose of objecting to the appointment.

(2) Where the Commission receives notice under section 483(b) that an overseas insolvency practitioner is to be appointed by a person to act as an insolvency practitioner, it may give the appointor notice that it intends to apply to the Court for an order that the overseas insolvency practitioner concerned should not be appointed.

(3) Where a person receives a notice from the Commission under subsection (2), it shall not appoint the overseas insolvency practitioner concerned to act as insolvency practitioner unless

(a) the Court approves the appointment at the hearing of the

Commission's application under subsection (2); or

(b) the Commission approves the appointment.

(4) A person who contravenes subsection (3) commits an offence.

Overseas practitioner sole appointee.

485. (1) This section applies where a licensee, for any reason, ceases to act in an insolvency proceeding and an overseas insolvency practitioner appointed jointly with him remains as the only insolvency practitioner appointed in the insolvency proceeding.

(2) Where this section applies, the overseas practitioner shall within three days after becoming aware that he is the only person acting as insolvency practitioner in an insolvency proceeding, give notice in the prescribed form

(a) to the Court, where the Court appointed him, or to such person or persons as appointed him; and

(b) to the Official Receiver.

(3) An overseas insolvency practitioner to whom subsection (1) applies is deemed not to be in contravention of section 474(2)

(a) where he gives notice in compliance with subsection (2), at any time during the period commencing with the date upon which he became the only person acting as insolvency practitioner in the insolvency proceeding and ending on the later of

(i) the 14th day after the date on which he became the only person acting as insolvency practitioner in the insolvency proceeding, or

(ii) the seventh day after the date upon which he became aware that was the only person acting as insolvency practitioner in the insolvency proceeding; or

(b) at any time when he does not know and could not be expected to have known that he is the only person acting in the insolvency proceeding.

Regulations.

486. (1) The Executive Council may make Regulations generally for giving effect to this Part and specifically in respect of

(a) the form and contents of, and the documents that shall accompany,

an application for a licence under this Part;

(b) the qualifications and experience required of and examinations to be taken and passed by applicants for a licence;

(c) the minimum security, including insurance cover, to be maintained by a licensee;

(d) the records to be kept by a licensee, and the length of time such records shall be kept;

(e) the inspection by the Commission of the records of a licensee;

(f) documents to be filed with and returns to be made to the Commission by licensees;

(g) fees payable on application for a licence and by licensees generally; and

(h) any other matter required or permitted by this Part to be specified in the Regulations.

(2) The Regulations

(a) may make different provision in relation to different persons, circumstances or cases;

(b) where a minimum standard, including a minimum level of security, is specified, may authorise the Commission to impose a higher standard or a greater level of security, according to the circumstances of a particular licensee or insolvency proceeding; and

(c) may provide for offences and penalties for any prohibition or contravention or failure to comply with a requirement prescribed in the Regulations.

(3) The Regulations, and any amendment to the Regulations, shall be published in the *Gazette*.

Code of Practice.

487. (1) Subject to subsections (2) and (3), the Commission may issue a Code of Practice with respect to

(a) the criteria that will be used in assessing applications for a licence, including the criteria for determining whether or not an individual is to be regarded as being resident in the Virgin Islands; and

(b) the procedures to be followed by and the conduct expected of a licensee when acting as an insolvency practitioner.

(2) The Code of Practice shall not be inconsistent with the Act, the Rules or the Regulations.

(3) The Regulations may specify matters that shall or may be included in the Code of Conduct, including the matters specified in section 486(1), and may limit the scope of the Code of Practice.

(4) The Code of Practice may make different provision in relation to different persons, circumstances or cases.

(5) The Commission shall publish the Code of Practice and any amendments thereto in the *Gazette*.

PART XXI

OFFICIAL RECEIVER

Official Receiver.

488. (1) The Commission shall appoint a suitably qualified and experienced person to be Official Receiver on such terms and conditions as it considers appropriate.

(2) The Official Receiver is an employee of the Commission.

Deputy Official Receiver and staff.

489. The Commission shall appoint one of its officers as Deputy Official Receiver and shall provide the Official Receiver with such other staff and resources as he requires to perform his functions under this Act and the Rules.

Official Receiver as officer of the Court.

490. For the purposes of the performance of his functions under this Act and the Rules, the Official Receiver is an officer of the Court and he

(a) may apply to the Court for directions in connection with his functions; and

(b) shall comply with any directions given to him by the Court.

Functions of Official Receiver.

491. (1) The Official Receiver has the duties, powers and functions imposed or conferred on him by this and any other enactment.

(2) Any assets vested in the Official Receiver on his dying or otherwise ceasing to hold office, vest in his successor without any conveyance, assignment or transfer.

(3) Subject to any provision in this Act or the Rules to the contrary, a reference to the liquidator, supervisor, interim supervisor, receiver or bankruptcy trustee includes the Official Receiver when acting in that capacity.

Right of audience.

492. The Official Receiver and the Deputy Official Receiver have a right of audience in insolvency proceedings before the Court.

PART XXII

MISCELLANEOUS PROVISIONS

Appointment of two or more office holders.

493. (1) Where this Act provides for the appointment of a liquidator, provisional liquidator, administrator, bankruptcy trustee, supervisor or interim supervisor, two or more persons may be jointly appointed to the relevant office.

(2) Where two or more persons are jointly appointed to an office, a function or power of the office may be performed or exercised by any one of the office holders, or by any two or more of them together, except so far as the order, deed, instrument or resolution appointing them otherwise provides.

Use of prescribed forms.

494. (1) If a document required or permitted by this Act or the Rules to be prepared or filed is of a type the form of which is prescribed by the Rules, that form shall be used with such modifications as the circumstances require.

(2) Notwithstanding subsection (1), a prescribed form shall not be varied so as to omit any information or guidance which the form gives to the intended recipient of the form.

Notices.

495. (1) Subject to subsection (2), all notices required or authorized to be given by or under this Act or the Rules shall be in writing.

(2) Subsection (1) does not apply where

(a) this Act or the Rules provide otherwise; or

(b) the Court requires or permits a notice to be given in some other way.

Time.

496. (1) Unless this Act or the Rules expressly provide otherwise, where the Act or the Rules specify a time within which an action shall or may be done, the Court

(a) may extend the time either before or after it has expired; or

(b) abridge the time;

on such terms as it considers fit.

(2) Without limiting subsection (1), where it is satisfied that an application is urgent, the Court may

(a) hear the application immediately, either with or without notice to, or the attendance of, other parties; or

(b) authorize a shorter period of service than that provided for by the Act or the Rules.

(3) Notwithstanding subsection (2), the Court shall not extend the time limit under section79(3)

(b) for determining whether an administrative receiver is a qualifying administrative receiver.

Resolutions.

497 (1) Anything which is required or permitted to be done under this Act by a resolution of the creditors of a company or of a bankrupt or a debtor within the meaning of , or by resolution of the members of a company may be done by written resolution of the members or creditors in accordance with, and subject to any conditions specified in, the Rules.

(2) The Rules may specify types or classes of resolution to which subsection (1) does not apply.

(3) Subject to subsection (2),

(a) a reference in this Act or the Rules to a resolution of a creditors' or members' meeting or to anything done at a creditors' or members' meeting includes a reference to anything done by a written resolution in accordance with this section; and

(b) a requirement to hold a creditors' or members' meeting is satisfied by the passing of a written resolution in accordance with this section.

Rules.

498. (1) The Executive Council may make Rules generally for giving effect to this Act and specifically in respect of anything required or permitted to be prescribed by this Act

(2) The Rules may make different provision for different persons, circumstances or cases.

Insolvent partnerships.

499. (1) The Rules shall specify which provisions of this Act shall apply to insolvent partnerships and the modifications applicable to insolvent partnerships.

(2) The Rules may contain such incidental, supplemental and transitional provisions as the Executive Council considers necessary or expedient.

Insolvent estates.

500. (1) The Rules shall specify which provisions of this Act shall apply to the administration of insolvent estates of deceased persons and the modifications applicable to the administration of such estates.

(2) The Rules may contain such incidental, supplemental and transitional provisions as the Executive Council considers necessary or expedient.

Offences, general provisions.

501. (1) A person who commits an offence under this Act is liable on summary conviction,

(a) if an individual, to the penalty stated against the relevant offence in column 4 of Schedule **5**; or

Schedule 5

(b) if not an individual, to the penalty stated against the relevant offence in column 3 of Schedule **5**;

and, in either case, to the daily default fine (if any) stated in column 5 of Schedule **5** for each day during which the default continues.

(2) Where an offence under this Act is committed by a body corporate, a director or officer who authorized, permitted or acquiesced in the commission of the offence also commits an offence and is liable on summary conviction,

(a) if an individual, to the penalty stated against the relevant offence in column 4 of Schedule **5**; or

(b) if not an individual, to the penalty stated against the relevant offence in column 3 of Schedule **5**;

and, in either case, to the daily default fine (if any) stated in column 5 of Schedule **5** for each day during which the default continues.

Rules may provide for offences and penalties.

502. The Rules may provide for offences and penalties for any prohibition or contravention or failure to comply with a requirement prescribed in the Rules.

Provisions of International Business Companies Act not to apply.

503. Section 65 of the International Business Companies Act does not apply in respect of

(a) any document, including an application to the Court, that is required or permitted to be served or sent; or

Cap. 291

(b) any notice required or permitted to be given to any person;

under this Act or the Rules.

Transitional provisions.

504 The Executive Council may, by regulations, provide for transitional provisions.

Act binding on Crown.

505. This Act is binding on the Crown.

SCHEDULE 1

POWERS OF ADMINISTRATOR AND ADMINISTRATIVE RECEIVER

(Section 90 and 144)

1. Power to take possession of, collect and get in the assets of the company and, for that purpose, to take such proceedings as he considers expedient to recover possession of any assets of the company.

2. Power to sell, charge or otherwise dispose of assets of the company.

3. Power to borrow money, whether on the security of the assets of the company, or otherwise.

4. Power to appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions.

5. Power to commence, continue, discontinue or defend any action or other legal proceedings in the name and on behalf of the company.

6. Power to refer to arbitration any question affecting the company.

7. Power to effect and maintain insurances in respect of the business and assets of the company.

8. Power to draw, accept, make and endorse a bill of exchange or promissory note in the name and on behalf of the company.

9. Power to appoint any agent to do any business which he is unable to do himself or which can be more conveniently done by an agent and power to employ and dismiss employees.

10. Power to do all such things (including the carrying out of works) as may be necessary for the realisation of the assets of the company.

11. Power to make any payment which is necessary or incidental to the performance of his functions.

12. Power to carry on the business of the company.

13. Power to establish subsidiaries of the company.

14. Power to transfer to subsidiaries of the company the whole or any part of the business and assets of the company.

15. Power to grant or accept a surrender of a lease or tenancy of any of the assets of the company, and to take a lease or tenancy of any property required or convenient for the business of the company.

16. Power to make any arrangement or compromise on behalf of the company.

17. Power to call up any uncalled capital of the company.

18. Power to rank and claim in the bankruptcy, liquidation, insolvency or sequestration of any person indebted to the company and to receive dividends, and to accede to trust deeds for the creditors of any such person.

19. Power to make or defend an application for the winding up of the company.

20. Power to amend the Memorandum of Association or otherwise to change the situation of the company's registered office.

21. Power to do all things incidental to the exercise of the foregoing powers.

SCHEDULE 2

POWERS OF LIQUIDATOR

(Section 186)

1. Power to pay any class of creditors in full.

2. Power to make a compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging that they have any claim against the company, whether present or future, certain or contingent, ascertained or not.

3. Power to compromise, on such terms as may be agreed

(a) calls and liabilities to calls, debts and liabilities capable of resulting in debts, and claims, whether present or future, certain or contingent, ascertained or not, subsisting or supposed to subsist between the company and any person; and

(b) questions in any way relating to or affecting the assets or the liquidation of the company;

and take security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.

4. Power to commence, continue, discontinue or defend any action or other legal proceedings in the name and on behalf of the company.

5. Power to carry on the business of the company so far as may be necessary for its beneficial liquidation.

6. Power to sell or otherwise dispose of property of the company.

7. Power to do all acts and execute, in the name and on behalf of the company, any deed~~s~~, receipt~~s~~ or other document.

8. Power to use the company's seal.

9. Power to prove, rank and claim in the bankruptcy, liquidation, insolvency or sequestration of any member or past member for any balance against his estate, and to receive dividends, in the bankruptcy, liquidation, insolvency, sequestration or in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors.

10. Power to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company with the same effect with respect to the company's liability as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of its business.

11. Power to borrow money, whether on the security of the assets of the company or otherwise.

12. Power to take out in his official name letters of administration to any deceased member or past member or debtor, and to do any other act necessary for obtaining payment of any money due from a member or past member or debtor, or his estate, that cannot conveniently be done in the name of the company.

For the purpose of enabling the liquidator to take out letters of administration or do any other act under this paragraph, to be due to the liquidator himself.

13. Power to call meetings of creditors or members for

(a) the purpose of informing creditors or members concerning the progress of or matters arising in the liquidation;

(b) the purpose of ascertaining the views of creditors or members on any matter arising in the liquidation; or

(c) such other purpose connected with the liquidation as the liquidator considers fit.

14. Power to appoint a solicitor, accountant or other professionally qualified person to assist him in the performance of his duties.

15. Power to appoint an agent to do any business that the liquidator is unable to do himself, or which can be more conveniently done by an agent.

SCHEDULE 3

LIQUIDATION OF FOREIGN COMPANY

(Section 163)

1. Part **VI** applies to the liquidation of a foreign company with the modifications and exclusions specified in this Schedule.

2. A foreign company is deemed to be insolvent if, in addition to the circumstances specified in section 8(1), it fails to comply with the requirements of a notice issued in accordance with paragraph 4.

3. Where a person has instituted an action or other proceeding against any member of a foreign company for any debt or demand due, or claimed to be due, from the company or from him in his character as member, that person may issue a notice to the company in accordance with paragraph 4.

4. A notice under this Schedule shall

(a) be in writing and shall specify the action or proceeding that has been instituted;

(b) be signed by the person who instituted the action or proceeding or by a person authorized to issue the notice on his behalf;

(c) require the company to pay, secure or compound for the debt or demand, or to procure the action or proceeding to be stayed or to indemnify the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages and expenses to be incurred by him because of it.

(d) state that if the notice is not complied with, application may be made to the Court for the appointment of a liquidator; and

(e) be served in accordance with the Rules.

5. References in Part **VI**

(a) to a company are to be taken as references to a foreign company, except in sections 159 and 161; and

(b) to assets are to be taken as references to assets situated in the Virgin Islands.

SCHEDULE 4

POWERS OF BANKRUPTCY TRUSTEE

(Section 325)

Part I - Powers Exercisable With Sanction

1. Power to carry on any business so far as may be necessary for winding it up beneficially and so far as the bankruptcy trustee is able to do so without contravening any requirement imposed by or under any enactment.

2. Power to bring, institute or defend any action or legal proceedings relating to the assets comprised in the bankrupt's estate.

3. Power to accept as the consideration for the sale of any asset comprised in the bankrupt's estate a sum of money payable at a future time subject to such stipulations as to security or otherwise as the creditor's committee or the Court considers fit.

4. Power to mortgage or pledge any part of the assets comprised in the bankrupt's estate for the purpose of raising money for the payment of his liabilities.

5. Power, where any right, option or other power forms part of the bankrupt's estate, to make payments or incur liabilities with a view to obtaining, for the benefit of the creditors, any asset which is the subject of the right, option or power.

6. Power to refer to arbitration, or compromise on such terms as may be agreed on, any claims or liabilities subsisting or supposed to subsist between the bankrupt and any person who may have incurred any liability to the bankrupt.

7. Power to make such compromise or other arrangement as may be thought expedient with creditors, or persons claiming to be creditors, in respect to bankruptcy liabilities.

8. Power to make such compromise or other arrangement as may be thought expedient with respect to any claim arising out of or incidental to the bankrupt's estate made or capable of being made on the bankruptcy trustee by any person or by the trustee on any person.

Part 2 - General Powers

9. Power to sell any of the assets for the time being comprised in the bankrupt's estate, including the goodwill and book debts of any business.

10. Power to give receipts for any money received by him, being receipts which effectually discharge the person paying the money from all responsibility in respect of its application.

11. Power to prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate.

12. Power to exercise in relation to any asset comprised in the bankrupt's estate any powers the capacity to exercise which is vested in him under Part **XII** of this Act.

13. Power to deal with any asset comprised in the estate to which the bankrupt is beneficially entitled as tenant in tail in the same manner as the bankrupt might have dealt with it.

14. Power to at any time summon a general meeting of the bankrupt's creditors.

Part 3 - Ancillary Powers

15. For the purposes of, or in connection with, the exercise of any of his powers under Part **XII** of this Act, the bankruptcy trustee may, by his official name

(a) hold assets of every description;

(b) make contracts;

(c) sue and be sued;

(d) enter into engagements binding on himself and, in respect of the bankrupt's estate, on his successors in office;

(e) employ an agent;

(f) execute any power of attorney, deed or other instrument;

and he may do any other act which is necessary or expedient for the purposes of or in connection with the exercise of those powers.

SCHEDULE 5

OFFENCES UNDER THIS ACT

(Section 501)

Column 1 Section of Act creating offence	Column 2 General nature of offence	Column 3 Penalty (corporate body)	Column 4 Penalty (individual)	Column 5 Daily default fine
20(2)	Director voting in favour of resolution to appoint interim supervisor without having reasonable grounds for believing that company is insolvent or is likely to become insolvent	$5,000	$4,000	
24(2)	Interim supervisor failing to file notice of appointment with Registrar		$1,000	$100
24(2)	Interim supervisor failing to file notice of appointment with Commission		$1,000	$100
25(4)	Officer of company failing to comply with Court order made under section 25(3)	$1,000	$1,000	$100
27(3)	Interim supervisor contravening section 27(1)		$2,000	
28(5)	Person failing to attend creditors' meeting	$1,000	$1,000	
32(5)	Person, as chairman of creditors' meeting,		$1,000	$100

	failing to prepare report of meeting			
32(5)	Person, as chairman of creditors' meeting, failing to send report of meeting to creditors		$1,000	$100
32(5)	Person, as chairman of creditors' meeting, failing to file report of meeting with Registrar		$1,000	$100
33(2)	Supervisor failing to file notice of appointment with Registrar		$1,000	$100
33(2)	Supervisor failing to file notice of appointment with Commission		$1,000	$100
36(3)	Supervisor failing to keep accounting records in accordance with section 36(1)		$7,500	
37(5)	Supervisor contravening section 37 [Supervisor to prepare and send out regular accounts and reports]		$7,500	
38(3)	Supervisor contravening section 38 [Completion of arrangement]		$2,000	$100
45	Officer of company making false representation or fraudulently doing or omitting to do anything for the purpose of obtaining the approval of the creditors of the company to an	$10,000,	$10,000, imprisonment for 2 years or both	

	arrangement			
48(2)	Interim supervisor failing to file notice of appointment with Commission		$1,000	$100
49(4)	Debtor failing to comply with order of Court made under section 49(3)		$7,500, imprisonment for one year or both	
58(2)	Interim supervisor failing to call meeting of creditors		$2,000	
58(2)	Interim supervisor failing to send to creditor documents required to be sent under section 58(1)(b)		$2,000	
61(5)	Person, as chairman of creditors' meeting, failing to file any document as required under section 61(1)		$1,000	
61(5)	Person, as chairman of creditors' meeting, failing to send notice of result of meeting to a creditor		$1,000	$100
64(3)	Supervisor contravening section 64 [Supervisor's duty to keep accounting records]		$7,500, imprisonment for one year or both	
65(4)	Supervisor contravening section 65 [Supervisor to prepare and send out regular accounts and reports]		$7,500, imprisonment for one year or both	
66(3)	Supervisor contravening section 66 [Completion of		$2,000	

	arrangement]			
74(2)	Debtor making any false representation or fraudulently doing, or omitting to do, anything for the purpose of obtaining the approval of his creditors to an arrangement		$10,000, imprisonment for two years or both	
82(2)	Administrator failing to give notice of his appointment in accordance with section 82(1)(a)		$2,000	
82(2)	Administrator failing to comply with section 82(1)(b)		$1,000	$100
82(2)	Administrator failing to send notice of appointment to company or a creditor		$1,000	$100
85(2)	Company contravening section 85(1) [Preservation of charged and other assets]	$7,500	$5,000	
86(8)	Company failing to file with Registrar notice of order made under section 86(2) or sealed copy of order	$500	$500	$100
86(8)	Company failing to comply with condition imposed under section 86	$5,000	$4,000	
92(6)	Administrator failing serve or file copy order in contravention of section 92(5)		$1,000	$100
92(6)	Administrator failing		$10,000	

	to comply with condition imposed under section 92			
100(6)	Administrator contravening section 100(1)		$2,000	
101(5)	Person failing to attend creditors' meeting	$1,000	$1,000	
102(6)	Administrator failing to report result of creditors' meeting to Court		$1,000	$100
102(6)	Administrator failing to file copy of report of creditors' meeting with Registrar		$1,000	$100
102(6)	Administrator failing to send notice of result of creditors' meeting to every creditor		$1,000	$100
104(6)	Administrator failing to report result of creditors' meeting to Court		$1,000	$100
104(6)	Administrator failing to file copy of report of creditors' meeting with Registrar		$1,000	$100
104(6)	Administrator failing to send notice of result of creditors' meeting to every creditor		$1,000	$100
106(3)	Administrator contravening section 106 [Administrator's duty to keep accounting records]		$7,500, imprisonment for one year or both	
107(4)	Administrator contravening section 107 [Administrator to		$7,500, imprisonment for one year or both	

	prepare and send out regular accounts and reports]			
108(3)	Company contravening section 108(1) [Notification]	$2,000	$1,000	
108(3)	Officer or administrator of company causing, permitting or acquiescing in contravention by company of section 108(1) [Notification]	$2,000	$1,000	
112(2)	Administrator or former administrator failing to file with the Registrar copy of order varying or discharging administration order		$1,000	$100
116(3)	Person accepting or purporting to accept appointment or acting or purporting to act as a receiver contrary to section 116(1)	$5,000	$4,000	
118(4)	Receiver failing to send notice of appointment to company		$1,000	
118(4)118(4)118(4)118(4)	Receiver failing to file notice of appointment in accordance with section 118(1)(b)		$2,000	
118(4)	Administrative receiver failing to advertise his appointment		$1,000	$100
118(4)	Administrative receiver failing to send notice of his appointment to all		$1,000	$100

	creditors			
119(4)	Person contravening or causing, permitting or acquiescing in a contravention of section 119(1)	$2,000	$1,000	
120(7)	Receiver failing to vacate his office forthwith if he ceases to be eligible to act as a receiver		$4,000	
120(7)	Receiver failing to give notice in accordance with section 120(3)		$2,000	
120(7)	Receiver failing to notify Court that he ceases to be eligible to act as a receiver		$2,000	
120(7)	Person failing to give notice to Registrar of vacancy in the office of receiver		$1,000	$100
121(3)	Person failing to comply with order made under section 121(2)	$7,500	$5,000, imprisonment for one year or both	
124(3)	Person failing to comply with order made under section 124(2)	$7,500	$5,000, imprisonment for one year or both	
136(7)	Receiver contravening section 136 [Receivership accounts to be filed with Registrar]		$4,000	$200
137(5)	Receiver failing to comply with order made under section 137		$5,000, imprisonment for one year or both	

145(10)	Administrative receiver failing to file copy of order made under section 145(2) or (7) with the Registrar		$1,000	$100
147(7)	Administrative receiver failing to comply with section 147 [Report by administrative receiver]		$2,000	
161(4)	Company failing to give liquidator notice of his appointment	$2,000	$1,000	
178(2)	Liquidator failing to advertise his appointment in accordance with section 178(1)(a)		$1,000	$100
178(2)	Liquidator failing to file notice of his appointment with Registrar		$1,000	$100
178(2)	Liquidator failing to serve notice of his appointment on company		$1,000	$100
178(2)	Liquidator failing to serve notice of his appointment on Commission		$1,000	$100
179(5)	Liquidator failing to call meeting of creditors in accordance with section 179(1)		$2,000	
179(5)	Liquidator failing to furnish documents or information to creditor as required by section 179(2)		$2,000	

179(5)	Liquidator failing to attend first creditors meeting or to report to the meeting on any exercise by him of his powers since his appointment		$2,000	
191(3)	Company contravening section 191(1) [Notification of liquidation]	$2,000	$1,000	
191(3)	Officer, receiver of liquidator of company causing, permitting or acquiescing in contravention by company of section 191(1) [Notification of liquidation]	$2,000	$1,000	
209(7)	Person making or authorizing the making of a claim under section 209 knowing that the claim is false or misleading in a material matter or that a material fact or matter has been omitted from the claim	$7,500	$7,500, imprisonment for two years or both	
217(4)	Liquidator failing to give notice of disclaimer		$5,000	
231(5)	Liquidator failing to comply with order made under section 231(3)		$7,500, imprisonment for one year or both	
233(7)	Person failing to file sealed copy of the order terminating liquidation with Registrar		$2,000	
239(5)	Liquidator failing to advertise his		$1,000	$100

	appointment in accordance with a direction of the Commission.			
267	Disqualified person engaging in prohibited activity	$10,000	$7,500, imprisonment for two years or both	
271(5)	Person failing to comply with order made under section 271(3)	$10,000	$7,500, imprisonment for one year or both	
277(4)	Relevant person failing, when required, to submit statement of affairs to office holder together with the verifying affidavit	$3,000	$2,000	$100
282(3)	Person failing to comply with notice received under section 282(1)	$5,000	$4,000	
288(1)	Person failing to attend examination ordered to be held under section 285	$7,500	$5,000, imprisonment for one year or both	
289(1)	Fraudulent conduct within the meaning of section 289(1)(a)	$10,000	$10,000, imprisonment for three years or both	
289(1)	Fraudulent conduct within the meaning of section 289(1)(b)	$10,000	$10,000, imprisonment for three years or both	
299(5)	Secured creditor failing to account or pay to the trustee the proceeds from any realisation of his security interest in accordance with section 299(3)(b)	$4,000	$3,000	

316(6)	Bankrupt failing to comply with an obligation under section 316 [Duties of bankrupt in relation to his assets and affairs]		$5,000, imprisonment for one year or both	
317(2)	Person failing to comply with an obligation imposed by section 317 [Delivery up by other person]	$7,5000	$5,000, imprisonment for one year or both	
326(3)	Trustee failing to advertise his appointment in accordance with section 326(1)(a)		$1,000	$100
326(3)	Trustee failing to serve notice of his appointment on bankrupt		$1,000	$100
326(3)	Trustee failing to serve notice of his appointment on Commission		$1,000	$100
326(3)	Trustee failing to send notice of his appointment to every creditor		$1,000	$100
326(3)	Trustee failing to file notice of his appointment with Commission		$1,000	$100
326(3)	Trustee issuing advertisement that does not comply with section 326(2)		$1,000	
336(7)	Person making or authorizing the making of a claim under section 336 knowing that the claim is false	$7,500	$7,500, imprisonment for two years or both	

	or misleading in a material matter; or a material fact or matter has been omitted from the claim				
354(4)	Undischarged bankrupt or discharged bankrupt whose estate is still being administered failing to do anything that he is directed to do by the Court in contravention of section 354(2)		$7,500, imprisonment for two years or both		
358(4)	Trustee failing to give notice of disclaimer to every person whose rights are, to his knowledge, affected by the disclaimer		$5,000		
366(4)	Bankrupt failing to submit a statement of his assets and liabilities in accordance with section 366(1)		$2,500, imprisonment for six months or both		
366(4)	Bankrupt submitting a statement of his assets and liabilities that does not comply with the prescribed requirements		$2,500, imprisonment for six months or both		
373(1)	Person failing to attend examination ordered to be held under section 370	$7,500	$5,000, imprisonment for one year or both		
381(2)	Discharged bankrupt failing to give trustee assistance in the realization and distribution of such of his assets as are vested in his trustee		$5,000, imprisonment for one year or both		

389(1)	Bankruptcy offence (non-disclosure)		$7,500, imprisonment for two years or both	
390	Bankruptcy offence (concealment of assets) contrary to paragraph (a), (b), (c), (d) or (e) of section 390		$10,000, imprisonment for three years or both	
391	Bankruptcy offence (concealment of books and papers or falsification) contrary to paragraph (a), (b), (c), (d), (e) or (f) of section 391		$10,000, imprisonment for three years or both	
392	Bankruptcy offence (false statements) contrary to paragraph (a), (b), (c), (d) or (e) of section 392		$10,000, imprisonment for three years or both	
393	Bankruptcy offence (fraudulent disposal of assets) contrary to paragraph (a) or (b) of section 393		$10,000, imprisonment for three years or both	
394	Bankruptcy offence (absconding) contrary to paragraph (a) or (b) of section 394		$10,000, imprisonment for three years or both	
395	Bankrupt committing bankruptcy offence of fraudulently dealing with assets obtained on credit contrary to section 395(1)		$10,000, imprisonment for three years or both	
395	Person committing bankruptcy offence of fraudulently dealing with assets obtained on credit contrary to section 395(2)		$10,000, imprisonment for three years or both	

396	Bankruptcy offence (obtaining credit; engaging in business) contrary to paragraph (a) or (b) of section 396(1)		$7,500, imprisonment for two years or both		
397(1)	Bankruptcy offence (failure to keep proper accounts of business) contrary to paragraph (a) or (b) of section 397(1)		$10,000, imprisonment for three years or both		
398	Bankruptcy offence (gambling) contrary to paragraph (a) or (b) of section 398		$7,500, imprisonment for two years or both		
416	Restricted person engaging in prohibited activity		$7,500, imprisonment for two years or both		
474(4)	Person acting as an insolvency practitioner without holding a licence that is not suspended	$10,000, imprisonment for two years or both	$10,000, imprisonment for two years or both		
478(4)	Licensee contravening section 478 (Production of accounts and records)		$7,500, imprisonment for two years or both		
484(4)	Person appointing an overseas insolvency practitioner to act as an insolvency practitioner contrary to section 484(3)		$5,000		

Passed by the Legislative Council this 17th day of April, 2003.

REUBEN VANTERPOOL,
Speaker.

OLEANVINE MAYNARD,
Ag. Clerk of the Legislative Council.

EXHIBIT C

Appointment Order

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
BRITISH VIRGIN ISLANDS
CLAIM NO. BVIHC (COM) 2021/0061
IN THE MATTER OF THE INSOLVENCY ACT 2003

OLINDA STAR LTD

Applicant

ORDER FOR APPOINTMENT OF PROVISIONAL LIQUIDATORS

Before: The Honourable Justice Jack [Ag]

Dated: 8 April 2021

Entered: 9 April 2021

UPON the application of Olinda Star Ltd ("**Olinda Star**") by its application dated 6 April 2021 (the "**Application**") for the appointment of joint provisional liquidators ("**JPLs**")

AND UPON reading the affidavits of Michael Pearson and Flavio Galdino, and exhibits thereto as well as the Affidavit of Sarah Latham

AND UPON the Court noting that the Application is an ancillary proceeding in support of the main judicial restructuring proceedings (the "**RJ Proceeding**") of certain of Olinda Star's affiliates (together, the **RJ Debtors**) in Brazil, where Olinda Star's centre of main interests is located

AND UPON the Court noting that each of Alpha Star Equities Ltd ("**Alpha Star**"), Gold Star Equities Ltd ("**Gold Star**"), Constellation Overseas Ltd ("**Constellation**"), Lone Star Offshore Ltd ("**Lone Star**"), Hopelake Services Ltd ("**Hopelake**"), Constellation Services Ltd ("**Constellation Services**")(collectively with Olinda Star, the "**BVI Filing Entities**") have sought the appointment of JPLs in the British Virgin Islands ("**BVI**") and Star International ("**Star**") is seeking the appointment of JPLs in the Cayman Islands

AND UPON hearing Grant Carroll and Daniel Mitchell on behalf of the Applicant

IT IS ORDERED that:

1 Eleanor Fisher of EY (Cayman) Ltd. and Roy Bailey of Ernst & Young Ltd. British Virgin Islands be appointed joint provisional liquidators ("**JPLs**") of Olinda Star with the power to act jointly and severally.

2 The JPLs are authorised to cooperate with the sole director and Olinda Star's Brazilian counsel, Galdino & Coelho Advogados ("**G&C**") in supporting its affiliates' RJ Proceeding.

3 The JPLs are authorised to enter into the attached protocol, which forms part of this Order.

4 The JPLs shall provide notice of their appointment by placing an advert in the BVI Gazette.

5 Without prejudice to the powers retained by Olinda Star's sole director pursuant to paragraph 7 below, until further order, the JPLs are authorised to exercise, within and outside the British Virgin Islands, and without further sanction of the Court, the power to:

(a) oversee and monitor the day-to-day operations of Olinda Star and the actions taken by the sole director (or those to whom the director has granted powers-of-attorney for the management of Olinda Star, such persons (collectively or severally) "**Authorised Managers**") pursuant to paragraphs 7(a) to (g) below and to attend meetings (in person or by telephone or video-conference) with the sole director (or his authorised representatives) and/or other officers of Olinda Star, and confer with the sole director and/or the Authorised Managers with respect to the exercise by the sole director or the Authorised Managers of any powers or the making of any decisions by the sole director;

(b) for the purpose or in furtherance of the restructuring of Olinda Star and its affiliates, do all acts and execute, in the name and on behalf of Olinda Star, all deeds, receipts and other documents, and for that purpose, use the company seal of Olinda Star when necessary;

(c) address, in consultation with the sole director, questions from other parties in any way relating to or affecting the restructuring of Olinda Star and its affiliates;

(d) consult and agree with the sole director and/or the Authorised Managers of Olinda Star in respect of any sale of property, assets or businesses of Olinda Star that are material or outside of the ordinary course of business, which will be subject to the approval of this Honourable Court in any event;

(e) consult and agree with the sole director and/or Authorised Managers of Olinda Star in respect of raising or borrowing any new money or granting new security over the property of Olinda Star;

(f) appoint attorneys and professional advisors, whether in the British Virgin Islands or any other jurisdiction including, but not limited to the United States, Brazil, Luxembourg, Paraguay, Panama, India, or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties and to cause them to be remunerated out of the assets of Olinda Star as an expense of the provisional liquidation;

(g) prove, rank, claim and / or receive dividends in the bankruptcy, insolvency or sequestration of any debtor;

(h) discharge costs, expenses and debts incurred by Olinda Star after the commencement of these proceedings as expenses or disbursements to the extent properly incurred in furtherance of the provisional liquidation;

(i) open a bank account in any relevant jurisdiction to the extent necessary and appropriate to properly discharge their duties in respect of the provisional liquidation;

(j) in consultation with Olinda Star, engage staff (whether or not as employees of Olinda Star and whether located in the British Virgin Islands or elsewhere) to the extent necessary and appropriate to assist them in the performance of their duties in respect of the provisional liquidation as set forth herein;

(k) procure a resolution of the sole director and/or call a meeting of the shareholders of Olinda Star as appropriate and necessary to properly discharge their duties in respect of the provisional liquidation as set forth herein;

(l) authorise the sole director and/or the Authorised Managers to exercise such of the above powers relating to Olinda Star on such terms as the JPLs consider fit to the extent necessary and appropriate to properly discharge their duties in respect of the provisional liquidation as set forth herein;

(m) following consultation with the sole director, make any application in the name of Olinda Star under section 174 of the Insolvency Act to stay any proceedings brought against Olinda Star, insofar as such proceedings are not automatically stayed by the terms of this Order; and

(n) do all other things incidental to the exercise of the powers and duties as set forth herein and not inconsistent therewith.

6 Until further order, and subject to the JPLs' oversight and monitoring of the exercise of such powers, and upon the sole director of Olinda Star undertaking (i) to include the JPLs in any exercise of any powers or the making of any decisions by the sole director and/or Authorised Managers, and (ii) to attend weekly meetings with the JPLs, (or at such other frequency as the JPLs shall from time to time require), in person or by telephone or video-conference, either by himself or by representatives authorised to act on his behalf, the director and Authorised Managers of Olinda Star be authorised to continue to exercise all powers of management conferred on them by Olinda Star and conduct the ordinary, day-to-day, business operations of Olinda Star.

7 In relation to matters outside of the ordinary course of business of Olinda Star, the sole director and/or the Authorised Managers shall obtain the JPLs' prior approval of the exercise of the sole director's powers (which for the avoidance of doubt, includes the passing of all written resolutions for transactions outside the ordinary course of business). In the event that the JPLs and the sole director and/or Authorised Managers cannot agree upon a proposed action outside the ordinary course of Olinda Star's business, the JPLs and the sole director

and Authorised Managers have liberty to apply to this Court for directions. Without prejudice to the generality of the foregoing, the sole director and Authorised Managers of Olinda Star are authorised to:

(a) continue to operate the bank accounts of Olinda Star in the ordinary course of Olinda Star's business;

(b) conduct the annual general meeting of Olinda Star's shareholders in accordance with the provisions of Olinda Star's Articles of Association;

(c) communicate with and carry out any necessary filings with regulatory bodies as appropriate, in the name and on behalf of Olinda Star;

(d) consult and agree with the JPLs in respect of steps to be taken for any sale of any other property, assets, or businesses of Olinda Star beyond the usual course of business;

(e) continue to work with and maintain authorisations granted to G&C to represent Olinda Star in the RJ Proceeding;

(f) consult and agree with the JPLs in respect of raising or borrowing any new money or granting new security over the property of Olinda Star.

8 The JPLs shall not be required to give security for their appointment.

9 Pursuant to section 174 of the Insolvency Act, 2003:

9.1 Any pending suit, action or other proceeding against Olinda Star is hereby stayed.

9.2 In the event that any suit, action or other proceeding, including criminal proceedings is commenced against Olinda Star, such suit, action, or other proceedings will be automatically stayed pursuant to s.174 (1) of the Insolvency Act 2003 unless and until this Court orders otherwise.

10 Unless otherwise ordered by the Court, the JPLs shall not act on the instruction of any shareholder of Olinda Star or receiver or assignee thereof.

11 The JPLs shall have sanction to seek Chapter 15 recognition of these proceedings in the United States and act as Chapter 15 representatives.

12 The costs of this Application shall be paid directly or indirectly out of the assets of Olinda Star as an expense of the provisional liquidation.

13 The remuneration and expenses of the JPLs, as approved by this Court, shall be recorded on a composite basis as between the BVI Filing Entities and allocated equitably as between them.

14 Pending the approval of their fees by the Court, the JPLs are authorised to draw 80% of their fees, and 100% of their expenses, on account from the sums supplied to them by the BVI Filing Entities and held by the JPLs for the purpose of discharging fees and expenses (the **"Restructuring Funding"**).

15 The remuneration and expenses of the JPLs, to the extent it exceeds the Restructuring Funding shall be paid from the assets of the BVI Filing Entities.

16 Any creditor of Olinda Star has liberty to apply to the Court at any time to vary or discharge this order, on not less than 14 clear days' notice to the JPLs, and on receipt of such notice, the JPLs shall immediately notify Olinda Star.

17 The requirement of 14 days' notice of the Originating Application be dispensed with under Insolvency Rule 17(3)(a).

18 The hearing of the Originating Application shall be adjourned generally. Any listing in the future shall be listed upon application to this Honourable Court by the JPLs, Olinda Star or any creditor of Olinda Star. Any such application by any creditor shall be served on the JPLs and Olinda Star at least 14 clear days before the hearing of the application.

19 The requirement for the Applicant to advertise the Originating Application be dispensed with.

20 Any creditor of Olinda Star has liberty to apply to the Court at any time to vary or discharge this Order on not less than 7 clear days' notice to the JPLs, and on receipt of such notice, the JPLs shall immediately notify the Board.

21 The JPLs be directed to prepare and submit reports (the "**Reports**") to the Court on a sealed basis, on the conduct of the provisional liquidation. The JPLs be authorised, in connection with the preparation of the Reports, to take all necessary steps with a view to identifying the viability of a restructuring including, without limitation, by way of a scheme of arrangement between Olinda Star and its creditors or any class thereof pursuant to section 179A of the Business Companies Act and/or by way of analogous process available in any other foreign jurisdiction. In particular, the JPLs be authorised to:

(a) review the financial position of Olinda Star, and in particular assess the feasibility of any proposal for a Restructuring; and

(b) monitor, consult with and otherwise liaise with the creditors and other stakeholders as necessary of Olinda Star in determining whether a Restructuring will be successfully approved and implemented.

22 The first Report shall be filed (on a sealed basis), and served on Olinda Star, within 12 weeks of the date of this Order. The JPLs shall file and serve further Reports every 4 months thereafter and at other intervals as the Court may from time to time direct.

23 The JPLs and the sole director and Authorised Managers shall be at liberty to apply for further directions in relation to, without limitation, any matter concerning Olinda Star or the conduct of the provisional liquidation, the sole director, the Authorised Managers, or the JPLs.

24 The Court File in these proceedings shall be unsealed.

By the Registrar

Insolvency Protocol

Constellation Overseas Ltd (**"Constellation"**), Constellation Services Ltd (**"Constellation Services"**) Lone Star Offshore Ltd (**"Lone Star"**), Gold Star Equities Ltd (**"Gold Star"**), Olinda Star Ltd (**"Olinda Star"**), Alpha Star Equities Ltd (**"Alpha Star"**), Hopelake Services Ltd (**"Hopelake"**), (the **"BVI Filing Entities"**) and Star International (**"Star"**) (collectively the" **JPL Filing Entities**" and the "**Companies**") and Eleanor Fisher of EY (Cayman) Ltd. and Roy Bailey of Ernst & Young Ltd. British Virgin Islands, as joint provisional liquidators (the "**JPLs**" and together with the Companies, the "**Parties**") of the Companies enter into this Insolvency Protocol Agreement (the "**Protocol**") with the Companies (acting by their directors) severally, as follows:

Preliminary Statement

The purpose of this Protocol is to ensure the just, efficient, orderly and expeditious administration of the provisional liquidation proceedings in the British Virgin Islands and the Cayman Islands (the "**Proceedings**"), to avoid duplication of work and conflict between the JPLs and the directors and management of the Companies, and to facilitate the function of the Proceedings in support of the Companies' global restructuring, as progressing in a centralised forum in Brazil through a judicially-supervised Brazilian *recuperacao judicial* (the **"RJ"**) (**"Brazilian RJ Proceeding"**).

The Proceedings

A. On 6 December 2018, the Companies (excluding Hopelake) along with certain of their affiliates (the "**RJ Debtors**") filed a petition in Brazil commencing their procedurally joint Brazilian RJ Proceeding. The Companies are part of a global oil and gas enterprise (the "**Constellation Group**" or the "**Group**"). The Group elected to commence its centralised restructuring in Brazil because Brazil has historically been and presently is the operational

centre of the Group's business; Brazil is the *principal estabelecimento* or "principal place of business" of the Group for purposes of Brazilian restructuring law; and Brazil is the "centre of main interests" or "COMI" of each debtor filing for chapter 15 recognition for the purposes of U.S. restructuring law (relevant here because of the Group's New York-law governed debt).

B. On 6 December 2018, the Brazilian Court entered an order formally accepting the RJ Debtors into the RJ. An amended plan support and lock-up agreement with a number of creditors was executed on 28 June 2019, and at a general creditors' meeting on 27 and 28 June 2019 the reorganisation plan (the "**RJ Plan**") was approved by creditors of the RJ Debtors. On 1 July 2019, the Brazilian RJ Court confirmed the RJ Plan.

C. In order to achieve a globally coordinated, centralised and holistic restructuring, the Companies also commenced complementary restructuring proceedings in the BVI and in the United States. In the United States, certain affiliated RJ Debtors commenced proceedings in New York under chapter 15 of the U.S. Bankruptcy Code (the "**Chapter 15 Proceedings**") seeking recognition of the RJ. The RJ Plan was recognised by the US Bankruptcy Court on 4 December 2019 in the Chapter 15 Proceedings, with the order issued on 5 December 2019. In the BVI, certain affiliated RJ Debtors each filed an Originating Application and Ordinary Application in the BVI Commercial Court (the "**BVI Court**") seeking the appointment of joint provisional liquidators pursuant to s.170 of the BVI Insolvency Act, 2003; on 19 December 2018, the BVI Court appointed to each of those applicants joint provisional liquidators. There were subsequently several extensions before the joint provisional liquidators' appointment

terminated on 18 December 2019 in respect of the majority of the companies,[1] following a successful restructuring. In respect of Olinda Star, following a successful application to the BVI Court to sanction a scheme of arrangement in late 2019, the appointment of the JPLs terminated on 7 April 2020.

D. As a result of liquidity issues, the RJ Debtors intend to apply within the Brazilian RJ Proceeding seeking (i) an extension of the supervision period of the RJ Court, (ii) a suspension of all obligations under the RJ Plan, and (iii) approval of an amended RJ plan following a further creditor vote. The RJ Debtors have concurrently sought the appointment of the JPLs in the BVI Courts and Cayman Islands' Courts in parallel support of this action.

E. By way of Orders dated [ ] 2021, the BVI Court appointed to each of the BVI Filing Entities joint provisional liquidators (the "**BVI Appointment Orders**").

F. By way of Order dated [ ] 2021, the Cayman Court appointed to Star joint provisional liquidators (the "**Cayman Appointment Order**").

G. In order to ensure that the Proceedings are conducted efficiently and, as intended, that they provide needed support to the Brazilian RJ Proceeding and the proposed RJ Plan Amendment, the JPLs and the Companies wish to enter into the terms of this Protocol.

[1] Constellation, Lone Star Offshore Ltd, Gold Star Equities Ltd, Snover International Inc. and Alpha Star Equities Inc

NOW THEREFORE, subject to the powers already afforded to the JPLs under the BVI Appointment Orders and the Cayman Appointment Order and for so long as the JPLs remain appointed to any of the Companies as provisional liquidators, the JPLs and the Companies (acting by their respective director(s)) hereby agree the following as to those Companies to which they remain appointed:

(1) Each of the Companies (acting by their directors, or those granted powers-of-attorney by the directors for the management of the company, such persons "**Authorised Managers**") shall continue to provide such information as is reasonably requested by the JPLs, including without limitation, reasonable requests for explanations or information as to:

(a) The actions or decisions taken by the Companies;

(b) The proposed terms of the incurrence of any new indebtedness or borrowing of money by the Companies whether pursuant to loan arrangements with financing institutions, bank or otherwise, and the granting of the security in respect of the same, and the guaranteeing of any indebtedness or borrowings of affiliates, which in each case will be subject to limitations within the Brazilian RJ Proceeding and/or the oversight of the Brazilian RJ Court;

(c) The proposed sale or disposal of any assets of the Companies; and

(d) The Brazilian RJ Proceeding, the RJ Plan, the RJ Plan Amendment and any other proposed amendment of the RJ Plan, including discussions and communications with creditors.

(e) Any Chapter 15 proceedings in the United States with relation to any of the JPL Filing Entities

(2) The Companies shall be permitted, subject to the JPLs' oversight and monitoring and unless otherwise ordered by the Court, to operate their businesses in the ordinary course, including the ordinary course operation of cash management systems and bank accounts, which in each case will be subject to limitations within the Brazilian RJ Proceeding.

(3) In order to facilitate communication between the Companies and the JPLs, and to ensure the JPLs are adequately informed as to the ongoing activities and decisions of the Companies, the officers and directors (or their authorised representatives, including Authorised Managers) of the Companies shall include the JPLs in any board meetings of the Companies and shall supply the JPLs with copies of any draft written resolutions prior to any meetings

(4) The JPLs (or a representative thereof) shall meet with an Authorised Manager of the JPL Filing Entities and a representative of the Constellation Group with current and up to date knowledge of the Brazilian RJ Proceeding in person or by telephone or videoconference or by whatever means is most appropriate on a weekly basis, or at such other intervals as the JPLs require, to address matters such as budgeting, cash expenditures, cash management, ordinary course transactions and all other matters reasonably necessary to keep the JPLs informed as their appointment and duties require (the "**Update Meetings**"). The Update Meetings shall also include regular and timely updates regarding the progress of the Brazilian RJ Proceedings and any proceedings involving the JPL Filing Entities in any jurisdiction or territory, including updates as to any discussions and or meetings with relevant stakeholders.

(5) The Authorised Manager shall supply to the JPLs, in a timely manner, updated iterations of any (i) cash flow forecasts, and (ii) copies of reports issued by A&M and/or BCG relating to the RJ Plan (or any amendment thereof).

(6) The directors and/or the Authorised Managers shall obtain the JPLs' prior approval of the exercise of the directors' powers outside of the ordinary course of business, which in each case will be subject to limitations within the Brazilian RJ Proceeding and/or the oversight of the Brazilian RJ Court. In the event that the JPLs and the directors and/or the Authorised Managers cannot agree upon a proposed non-ordinary course action, the JPLs and the directors have liberty to apply to this Court for directions.

(7) The Parties acknowledge that the Companies are engaged in a global restructuring with certain affiliates that is centered in the Brazilian RJ Proceeding. The Proceedings have been commenced in support of the global restructuring centered in Brazil, and that other foreign restructuring proceedings, including any Chapter 15 Proceedings in the United States are additionally in support of the Brazilian RJ Proceeding. To facilitate the role of the Proceedings in this global restructuring and to ensure that they provide needed support thereto, the JPLs will seek where possible (in accordance with their duties to the Companies' creditors) to exercise their duties accordingly.

(8) Each of the Companies has granted to the Brazilian law firm of Galdino & Coelho Advogados ("**G&C**") a power-of-attorney to act on its behalf, if involved, in the course of the Brazilian RJ Proceeding. In the course of the Brazilian RJ Proceeding, G&C will routinely enter filings with the Brazilian RJ Court, including motions for relief on behalf of the Companies. As G&C

is expected to enter numerous filings with the Brazilian Court, many which are routine and/or minor and some of which must be entered at short notice, it is not feasible for G&C on behalf of the Companies to obtain permission from the JPLs, and in some case to give advance notice to the JPLs, of any expected filing. Nevertheless, the Parties recognise the importance of keeping the Companies and the JPLs equally apprised of and involved in important steps in the Brazilian RJ Proceeding, including filings made on behalf of the Companies. The Parties expect that G&C will provide routine informational updates on the development of the RJ Proceeding to the Companies and to the JPLs in tandem, and that any such updates or other information about progress in the Brazilian RJ Proceeding that is provided to the Companies will also be readily provided to the JPLs. The Parties also understand that the JPLs may have questions about the Brazilian restructuring process (the RJ), and the Companies will direct their counsels, including G&C, to readily address any such queries.

(9) The Parties expect that G&C will provide, in a timely manner, to the Companies and the JPLs oral updates and English translations of drafts of any documents pertaining to the RJ Proceeding, the RJ Plan, the RJ Plan Amendment and any other proposed amendment of the RJ Plan, as well as materials in support of the RJ Plan, the RJ Plan Amendment and any other proposed amendment of the RJ Plan, such as valuation reports, liquidation analyses, and other schedules and reports.

(10) The Parties expect that White & Case LLP, in its capacity as counsel to Andrew Childe, the foreign representative of the Brazilian RJ Proceeding with respect to each of the JPL Filing Entities, will provide to the Companies and the JPLs timely and regular updates as to the relevant Chapter 15 proceedings relating to any of the JPL Filing Entities.

(11) The JPLs shall give notice to the Companies of all proceedings in the BVI and or Cayman Court and shall not object to the Companies attending and seeking to be heard at any hearings before the BVI or Cayman Court.

(12) The Companies shall give notice to the JPLs of all proceedings in the BVI or Cayman Court and shall not object to the JPLs attending and seeking to be heard at any hearings before the BVI or Cayman Court.

(13) The JPLs may communicate and/or consult with any of the Companies' creditors, as and when and in the manner they believe it is appropriate to do so, following consultation with and consent of the directors of the relevant JPL Filing Entity, such consent not to be unreasonably withheld or delayed.

(14) The JPLs shall consult and obtain the consent of the Companies (such consent not to be unreasonably withheld) prior to the appointment of any additional professional advisors.

(15) The JPLs may, as they deem necessary and subject to any ruling of the BVI or Cayman Court, apply for directions or sanction from the BVI or Cayman Court in relation to any matter. For the avoidance of doubt, this right is without prejudice to the right of the Companies to be put on notice of any such application and the right to be heard and, where necessary, object to the directions sought.

(16) The BVI Court shall have exclusive jurisdiction over the remuneration of the JPLs of the BVI Filing Entities, and the Cayman Court shall have exclusive jurisdiction over the Remuneration of Star. The JPLs shall seek approval of their remuneration from the BVI and/or Cayman

Court as necessary. The JPLs shall open a bank account, and shall deposit an initial US$400k from the assets of the Companies to facilitate the payment of BVI and Cayman restructuring costs, fees, disbursements and such other expenses as the JPLs shall be required to settle from time to time during the course of the Proceedings.

(17) The JPLs acknowledge that in the course of performance of their duties they will have access to and be provided with trade secrets and other confidential material ("**Confidential Information**"). The JPLs agree to keep such Confidential Information confidential and shall not, without the approval of the BVI or Cayman Court or agreement of the Companies (or as otherwise required by law), reveal, divulge or in any other manner authorise the access to or publish Confidential Information, to any person, entity or company, nor use the Confidential Information for any other purpose that is not directly related to their role as JPLs of the Companies. Notwithstanding the foregoing, the JPLs may disclose Confidential Information on a need-to-know basis to their Representatives ("**Representatives**" of the JPLs means their and EY (Cayman) Ltd.'s and/or Ernst & Young Ltd. British Virgin Islands' employees, directors, officers, agents, associates, colleagues, and advisors, including lawyers, accountants, auditors and consultants).

(18) This Protocol shall be binding on and inure to the benefit of the parties hereto and their respective successors, assigns, representatives, heirs, executors, administrators, liquidators, trustees, and receivers, receiver managers, or custodians appointed.

(19) This Protocol may not be waived, amended or modified except in writing by all parties and subject to the approval and authorisation of the BVI Court with respect to the BVI Filing Entities and the Cayman Court with respect to Star.

(20) Each party represents and warrants to the other that its execution, delivery, and performance of this Protocol are within the power and authority of such party and have been duly authorised by such party (except that it is acknowledged that approval of the BVI Court (with respect to the BVI Filing Entities) and Cayman Court (with respect to Star) is required).

(21) This Protocol may be signed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument, and may be signed by PDF signature, which shall be deemed to constitute an original signature.

(22) The parties hereto are hereby authorised to take such actions and execute such documents as may be necessary and appropriate to implement and effectuate the terms of this Protocol.

(23) This Protocol shall be deemed effective upon its approval by the BVI Court with relation to the BVI Filing Entities, and the Cayman Court with respect to Star. This Protocol shall have no binding or enforceable legal effect until approved by BVI Court with relation to the BVI Filing Entities and by the Cayman Court with respect to Star.

IN WITNESS WHEREOF the parties hereto have caused this Protocol to be executed either individually or by their respective attorneys or representatives hereunto authorised.

JOINT PROVISIONAL LIQUIDATORS

By: _____
Eleanor Fisher as joint provisional liquidator and without personal liability

By: _____
Roy Bailey as joint provisional liquidator and without personal liability

Mr. Michael Pearson, on behalf of each of the BVI Filing Entities in his capacity of a director of the BVI Filing Entities

By:_____
Name:
Title:

Date:

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
BRITISH VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM No. BVIHC (COM) 2021/0061
IN THE MATTER OF THE INSOLVENCY ACT 2003

OLINDA STAR LTD

Applicant

ORDER

Ogier
Ritter House
Wickham's Cay II
PO Box 3170
Road Town, Tortola
British Virgin Islands
Tel: +1 (284) 852 7300
Ref: GRC/DM/174287.000011
Legal Practitioners for the Applicant

EXHIBIT D

Advertisement of JPL Appointment

In the matter of the Insolvency Act, 2003
(the "Act")
AND
Olinda Star Ltd.
Company Number 1049761
(the "Company")
Incorporated in the British Virgin Islands

10138 NOTICE IS HEREBY GIVEN, pursuant to Section 170(1) of the Act, that on 8 April 2021, Roy Bailey of Ernst & Young Ltd., Ritter House, Wickham's Cay 2, P.O. Box 3169, Road Town, Tortola, British Virgin Islands, VG1110 and Eleanor Fisher of EY Cayman Ltd., 62 Forum Lane, Camana Bay, Box 510, Grand Cayman, KY1-1106, Cayman Islands, were appointed as Joint Provisional Liquidators of the Company by Order of the Eastern Caribbean Supreme Court in the High Court of Justice British Virgin Islands.
NOTICE IS HEREBY GIVEN that creditors of the Company may contact the Joint Provisional Liquidators at the email address below.

Dated this 13th day of April 2021

Eleanor Fisher
Joint Provisional Liquidator

Contact details: EY Cayman Ltd.
Contact: Julie Haghiri
Telephone: +1 345 814 8256
Email: Julie.Haghiri1@@ky.ey.com

FAITH BLOOM LIMITED, BC# 684776
In Voluntary Liquidation
(the "Company")

10139 **NOTICE** is hereby given pursuant to an Order of the Eastern Caribbean Supreme Court in the High Court of Justice British Virgin Islands that on 1 October 2020, John Ayres of FTI Consulting (BVI) Limited, 1st Floor, Sea Meadow House, Tobacco Wharf, PO Box 993, Road Town, Tortola, VG1110, British Virgin Islands and Vincent Fok of FTI Consulting (Hong Kong) Limited, Level 35, Oxford House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong, were appointed as Joint Liquidators of the Company upon its restoration to the Register of Corporate Affairs on 30 December 2020.

NOTICE is also hereby given that all creditors of the Company are required on or before 20 May 2021 to send their names, address and details of their debt to the contact details provided below.

Dated 14 April 2021

John Ayres
Joint Liquidator

Contact Details:	FTI Consulting (BVI) Limited
Name of contact:	Sheniece Lettsome
Telephone:	1 284 340 2037
Email:	sheniece.lettsome@fticonsulting.com

EXHIBIT E

Scheme Commencement Resolution

Olinda Star Ltd. (In Provisional Liquidation)

BC Number: 1049761

(the Company)

Written resolutions of the sole director (the **Director**) of the Company adopted pursuant to Regulation 96 of the Company's Articles of Association (the **Articles**) and pursuant to Section 129 of the BVI Business Companies Act, 2004 (the **Act**).

Scheme of arrangement commencement

1 It is noted that the Company is part of a worldwide group of companies, whose ultimate holding company is Constellation Oil Services Holding S.A.[1] (the **Parent** and, together with its subsidiaries, the **Constellation Group**).

2 It is further noted that the Parent and several of its subsidiaries (the **RJ Debtors**) commenced a judicial reorganization (*recuperação judicial*) under Brazilian Federal Law Nº 11.101 of February 9, 2005 (the **RJ**) before the 1st Business Court of Rio de Janeiro (the **Brazilian RJ Court**). The comprehensive plan of reorganisation of the RJ Debtors (the **RJ Plan**) was confirmed by the Brazilian RJ Court on 1 July 2019 and was enforced by the US Bankruptcy Court by orders entered on 5 December 2019 in ancillary proceedings under chapter 15 of title 11 of the United States Code. The restructuring transactions provided for pursuant to the RJ Plan were consummated on 18 December 2019.

3 It is further noted that the RJ Debtors have now entered into a plan support and lock-up agreement dated 24 March 2022 (the "**PSA**") whereby certain restructuring and recapitalisation transactions have been negotiated between, among others, the Parent (on behalf of itself and each of its direct and indirect subsidiaries), LUX Oil & Gas International S.á.r.L., the ALB Lenders (as defined in the PSA), Banco Bradesco S.A., the 2024 Noteholders (as defined in the PSA) and the New Money Lenders (as defined in the PSA) on the terms and conditions as set out in the PSA, which includes the following exhibits:

(a) an amendment to the RJ Plan, which can be modified as agreed between the Parties (as defined in the PSA) in accordance with Section 12 of the PSA (the "**RJ Plan Amendment**"); and

(b) a term sheet attached as an exhibit to the RJ Plan Amendment (the "**RJ Plan Term Sheet**"),

in each case as may be later amended, modified, revised, or supplemented in accordance with Section 12 of the PSA (such transactions as described in the PSA and as contemplated in the other Restructuring Documents (as defined in the PSA), together, the "**Restructuring Transactions**").

[1] Formerly known as QGOG Constellation S.A.

4 It is further noted that certain of the RJ Debtors, including the Company, are currently undergoing a joint provisional liquidation proceeding in the BVI (the **BVI Provisional Liquidation**).

5 It is noted that pursuant to an Order of the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands (the **BVI Court**) dated 8 April 2021 (the **JPL Appointment Order**), Ms. Eleanor Fisher and Mr. Roy Bailey have been appointed to the Company as Joint Provisional Liquidators (the **JPLs**). The JPL Appointment Order authorised the JPLs to enter into an Insolvency Protocol dated 19 April 2021, which, to the extent permitted by law, governs the relationship between the JPLs and the Company.

6 It is noted that the Rio de Janeiro Court of Appeals has ruled that the Company should be removed from the RJ. On 25 June 2019, Olinda and RJ Debtors filed a special appeal of the Brazilian Court of Appeal's decision to the Superior Court of Justice (the **Special Appeal**). The Special Appeal sought to repeal of the Court of Appeal's decision, and the reinstatement of the Brazilian Court's earlier decision which had admitted all foreign debtors, including Olinda, into the RJ, and ordered the substantive consolidation of all debtors. On 21 November 2019, the Brazilian Court of Appeal admitted the Special Appeal to be ruled on its merits by the Superior Court of Justice. However, as at the date of these Resolutions, no determination has been made on the Special Appeal.

7 It is noted that the Director has determined, having spoken to advisors and considering the Constellation Group as a whole, that it is advisable and in the best interests of the Company to commence a scheme of arrangement (the **Scheme of Arrangement**) pursuant to section 179A of the Act, which Scheme of Arrangement shall be on substantially the same terms as the RJ Plan Amendment, in order to effect a court-sanctioned restructuring of the Company's debt in the British Virgin Islands.

8 It is necessary for the successful implementation of the Scheme of Arrangement for the Company to obtain recognition of the BVI Provisional Liquidation and enforcement of the Scheme of Arrangement by the U.S. Bankruptcy Court pursuant to a new proceeding under chapter 15 of the U.S. Bankruptcy Code (the **BVI Chapter 15 Proceeding**). In order to commence the BVI Chapter 15 Proceeding and to pursue the recognition, enforcement of the Scheme of Arrangement in the BVI Chapter 15 Proceeding, it is necessary that the Company appoints a "foreign representative" within the meaning of section 101(24) of the U.S. Bankruptcy Code.

9 It was noted that legal advisors and financial advisors, including Alvarez & Marsal, Ankura Consulting Group, LLC, White & Case LLP, and Ogier, have been appointed by the Constellation Group to assist the Constellation Group in coordinating the Scheme of Arrangement. It is further noted that White & Case LLP and Ogier have been or will be appointed by the JPLs to assist and advise the JPLs on the Scheme of Arrangement and the BVI Chapter 15 Proceeding.

10 Section 179A(1) states "*Where a compromise or arrangement is proposed between a company and its creditors, or any class of them,…the Court may, on application of a person specified in subsection (2)* [which includes the company], *order a meeting of creditors or class of creditors…to be summoned in such manner as the Court directs*".

11 It is intended that the Scheme of Arrangement will restructure the debt obligations of the Company so that it mirrors the process of the RJ Debtors that had the same creditors as the Company in the RJ Plan Amendment. The Company will apply to the BVI Court to ask it to convene a creditors' meeting to approve the Scheme of Arrangement. If the court convened meeting is successful an application will be made to the BVI Court to provide a sanctioning order for the Scheme (such process being the **Olinda BVI Proceeding**).

12 As part of the Restructuring Transactions, the Constellation Group's capital structure is to be "deleveraged" and new money financing will be provided to the Parent and/or certain of its subsidiaries by certain parties (the "**New Money Lenders**") in return for the issuance, upon the effective date of the RJ Plan Amendment, to such New Money Lenders of certain notes described as the "New Priority Lien Notes" in the RJ Plan Term Sheet. The New Money Lenders will invest new money into the Group's business to better capitalize it for go-forward operations. The Scheme of Arrangement will terminate upon the completion of the above.

13 The Company intends to take the following actions (the **Actions**):

(a) apply to the BVI Court to convene a creditors' meeting to approve the Scheme of Arrangement;

(b) if the BVI Court convenes a creditors' meeting, provide notice (**Notice**) of the Scheme of Arrangement to all known creditors on such notice as the BVI Court determines;

(c) place an advert in suitable publications in jurisdictions such as the BVI, New York, Brazil, and India providing notice of the court convened meeting for the Scheme of Arrangement;

(d) if the Scheme of Arrangement is approved by the required majorities as set out in Section 179A of the Act at the court convened meeting, to apply to the BVI Court for an order to sanction the Scheme of Arrangement (the **Sanctioning Order**);

(e) to file the Sanctioning Order with the BVI Registry of Corporate Affairs;

(f) apply for a BVI Chapter 15 Proceeding, appointing Eleanor Fisher as Foreign Representative as required;

(g) obtain recognition of the Scheme of Arrangement pursuant to the BVI Chapter 15 Proceeding; and

(h) at conclusion, file a notice of discharge of the JPLs.

14 The Director notes that the Scheme of Arrangement is a mirror of the RJ Plan Amendment and has been approved by the JPLs as being in the best interests of the creditors of the company as a whole.

15 The Director further noted that, on 28 March 2022, the Brazilian RJ Court confirmed the RJ Plan Amendment (the **Brazilian Confirmation Order**), and, on 3 May, 2022, the

U.S. Bankruptcy Court entered an order granting full force and effect to the RJ Plan Amendment and the Brazilian Confirmation Order in the United States.

16 With the above transaction in mind, the following documents have been examined by the Director (the **Documents**):

(a) the draft Olinda scheme of arrangement circular to creditors;

(b) the draft Notice; and

(c) the draft application to the BVI Court comprising:

(i) the application notice;

(ii) the draft affidavit in support; and

(iii) the draft order.

17 The Director confirms by his signature hereto that he has no interest for the purposes of Section 124 of the Act in the Documents or the plan of arrangement by reason of a financial interest or relationship with any other parties to the Documents or otherwise that has not already been disclosed.

18 The Director confirms by his signature that he has carefully considered the Documents and the transactions contemplated thereby. The Director does not wish to suggest any amendments to any of the Documents.

19 The Director of the Company does hereby adopt the following written resolutions:

(a) the contents of the Documents be and are hereby approved and that it is in the best interests of the Company and its creditors as a whole to commence a scheme of arrangement in the BVI in the terms set out in the Documents;

(b) the Director be and is hereby authorised to file the application for the Scheme of Arrangement in the BVI, with such amendments as the Director in his sole discretion thinks fit;

(c) the Director be and is hereby authorised to complete the Actions and sign, execute or seal any such ancillary documents as necessary in order to complete the Actions;

(d) if the BVI Court does order a court convened meeting of the creditors to vote on the scheme of arrangement, the Director and his professional advisors be and are hereby authorised to set a Record Time (as defined in the scheme circular) ahead of the court convened meeting and to circulate that date in the scheme circular and notice;

(e) the Director be and is hereby authorised to sign, execute or seal all such documents and to perform all such acts on behalf of the Company in connection with the Documents, the commencement of the Scheme of Arrangement and the transactions contemplated thereby as the Director shall in his absolute discretion think fit;

(f) Ms. Eleanor Fisher is appointed as the Foreign Representative of the Company, including as that term is defined in section 101(24) of the U.S. Bankruptcy Code and that the Foreign Representative be further authorised to: (a) commence, if and when needed, any ancillary recognition or other proceeding in support of the Scheme of Arrangement (a **Supporting Foreign Proceeding**) including but not limited to the BVI Chapter 15 Proceeding; (b) seek all relief available to a "foreign representative" in such a Supporting Foreign Proceeding and any further relief that she deems prudent in support of the Scheme of Arrangement and to take any and all actions on behalf of the Company (to the extent allowed under applicable law) as she deems necessary to seek such relief); and if applicable, act as the Company's agent in administering the reorganisation of the Company's assets and affairs in any Supporting Foreign Proceeding; and

(g) to the extent any of the actions set out above have already occurred, they are hereby confirmed and ratified.

[*signature page follows*]

..... 26 May 2022

Michael Pearson Date signed

Location where signed: George Town, Cayman Islands

These resolutions are confirmed as authorised by the JPLs and the JPLs confirm that Michael Pearson, as director of the Company, will have all authority to act on behalf of the Company as set out above in the Resolutions.

.... 2022

Name: Eleanor Fisher Date signed

Title: Joint provisional liquidator acting without personal liability

.... 2022

Michael Pearson Date signed

Location where signed:.....

These resolutions are confirmed as authorised by the JPLs and the JPLs confirm that Michael Pearson, as director of the Company, will have all authority to act on behalf of the Company as set out above in the Resolutions.

..... 26 May 2022

Name: Eleanor Fisher Date signed

Title: Joint provisional liquidator acting without personal liability

SCHEDULE

Companies of which Michael Pearson is a director

Amaralina Star Ltd.
Laguna Star Ltd.
Alpha Star Equities Ltd. (in Provisional Liquidation)
Brava Star Ltd.
Constellation Overseas Ltd. (in Provisional Liquidation)
Constellation Services Ltd. (in Provisional Liquidation)
Gold Star Equities Ltd. (in Provisional Liquidation)
Lone Star Offshore Ltd. (in Provisional Liquidation)
Olinda Star Ltd. (in Provisional Liquidation)
Lancaster Projects Corp.
Star International Drilling Limited

EXHIBIT F

Convening Order

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM No. BVIHC (COM) 2021/0061
IN THE MATTER OF OLINDA STAR LTD. (in Provisional Liquidation)
AND
IN THE MATTER OF THE INSOLVENCY ACT, 2003
AND
IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

OLINDA STAR LTD.
(in Provisional Liquidation)

Applicant

CONVENING DIRECTIONS ORDER

Before: **The Honourable Justice Adrian Jack [Ag]**

Dated: **18 July 2022**

Entered: 25 **July 2022**

UPON THE APPLICATION OF OLINDA STAR LTD. (the "**Scheme Company**") by Ordinary Application dated 27 May 2022 (the "**Application**")

AND UPON the Scheme Company having appointed Eleanor Fisher to act as the Scheme Company's foreign representative in respect of the Scheme (defined below) and this proceeding in any process under chapter 15 of the U.S. Bankruptcy Code to obtain recognition of this proceeding in respect of the Scheme, enforcement of the Scheme, and of any order of this Court sanctioning the Scheme, in each case within the territorial jurisdiction of the United States and in any other recognition proceedings

AND UPON the Court adopting in this Order (save where terms are otherwise expressly defined in this Order) the definitions, abbreviations, words and phrases contained in the Scheme Documents hereinafter mentioned

AND UPON the Court considering the papers in the Application, including the written submissions in support of the Application to convene a meeting of the Scheme Company's Scheme Creditors

AND UPON the Court being satisfied that it has jurisdiction in relation to the Scheme (as defined below) on the basis that the scheme Company is a "company" within section 179A of the BVI Business Companies Act 2004

IT IS ORDERED AND DIRECTED THAT:

1. The Scheme Company be at liberty to convene a meeting of its Scheme Creditors to be held at **13:00 (New York time)** on **13 September 2022** at the offices of White & Case, 1221 6th Avenue, New York, 10020, United States of America and via webinar or any other virtual means, for the purpose of considering and, if thought fit, approving with or without modification, the scheme of arrangement (the "**Scheme**") to be made between the Scheme Company and the Scheme Creditors (the **"Scheme Meeting**").

2. At least 21 days before the day appointed for the Scheme Meeting, the Scheme Company shall arrange for copies of (i) the notice convening the Scheme Meeting; (ii) the Scheme; (iii) a Voting and Proxy Form, for use by the Scheme Creditors in connection with the Scheme Meeting, (together referred to as the "**Scheme Documents**") to be:

    a. made available by the Scheme Company or the Scheme Administrator through DTC's Legal Notice System (in respect of the Notes); and

    b. uploaded by the Scheme Company or Scheme Administrator to the website at https://www.theconstellation.com/Investidores.aspx?IdCanal=VLr9yw/yY1n2ugcHl2MH8g==&linguagem=en (the "**Scheme Website**") (to be available to all Scheme Creditors (as defined in the Scheme)).

3. Any supplemental information not included in the Scheme Documents which the Scheme Company wishes to provide to the Scheme Creditors in advance of the Scheme Meeting (or any adjourned Scheme Meeting) shall be provided in the manner described in paragraph 2 above (save that the Scheme Company has permission to abridge the 21 day stated time limit to a shorter time period, provided Scheme Creditors must have sufficient time to consider such supplemental information before the Scheme Meeting or any adjourned Scheme Meeting).

4. Copies of the Scheme Documents shall be in the form or substantially in the form of the documents exhibited to the Fifth Affidavit of Michael Pearson filed in support of this Application subject to modifications as advised by Counsel to the Scheme Company.

5. Unless the Court orders otherwise, the accidental omission to notify any of the Scheme Creditors with the notice of the Scheme Meeting or the non-receipt of notice of the Scheme Meeting by any Scheme Creditor shall not invalidate the proceedings at the Scheme Meeting.

6. In order to vote on the Scheme (in person, by authorised representative and/or by proxy), Scheme Creditors shall return their duly completed and signed Voting and Proxy Form so that it is received no later than the Voting Instruction Deadline, being **13:00 (New York time)** one business day before the Scheme Meeting (or, if the Scheme Meeting is adjourned, by **10:00 (New York time)** on the day which is one Business Day prior to the date of the adjourned meeting) by submitting it by email to the address listed in the Voting and Proxy Form.

7. The Scheme Creditors as at the Voting Instruction Deadline, **13:00 (New York time)** on one business day before the Scheme Meeting, or if the Scheme Meeting is adjourned then at **10:00 (New York time)** on the day which is by one Business Day prior to the date of the adjourned meeting, will be entitled to attend and vote at the Scheme Meeting (either in person, by authorised representative and/or by proxy).

8. Miss Eleanor Fisher be appointed as chairperson of the Scheme Meeting on behalf of the Scheme Company (the "**Chairperson**").

9. The Chairperson be responsible for determining in accordance with the relevant provisions in the Scheme Documents, the entitlement of, and value for which, any Scheme Creditor be permitted to vote at the Scheme Meeting by reference to the information supplied by the Scheme Creditor and/or by reference to information contained in the Scheme Company's books and records.

10. The Chairperson be at liberty to accept, at her/his discretion, otherwise incomplete or late Voting and Proxy Forms (but, for the avoidance of doubt, provided that any such late Voting and Proxy Form is received before the Chairperson closes the Scheme Meeting; and, provided that in the case of an incomplete Voting and Proxy Form, sufficient information has been provided in such Voting and Proxy Form, or by some other means, to enable the Chairperson, in any such given case, to assess the value of the relevant Admitted Liability).

11. The Chairperson shall be entitled to rely on the signature on the Voting and Proxy Form, including one sent by e-mail or fax, as a warranty that the signatory has been duly authorised by the relevant Scheme Creditor to sign the Voting and Proxy Form on behalf of that Scheme Creditor.

12. The Chairperson be at liberty to adjourn the Scheme Meeting provided that if adjourned, the Scheme Meeting recommences as soon as reasonably practicable according to the Chairperson's discretion. In so far as practicable, notification of the time, date and place at which the adjourned Scheme Meeting will occur should be given to Scheme Creditors as follows:

    a. made available by the Scheme Company or the Scheme Administrator through DTC's Legal Notice System (in respect of the Notes); and

    b. uploaded by the Scheme Company or Scheme Administrator to the Scheme Website (to be available to all Scheme Creditors).

13. The Chairperson be at liberty to permit the attendance of persons who are not otherwise entitled to attend and vote at a Scheme Meeting, unless an objection is taken by (or by a person appointed to vote by proxy for) a Scheme Creditor entitled to attend and vote at the relevant Scheme Meeting, provided that such a person shall not be entitled to speak at the relevant Scheme Meeting without the permission of the Chairperson.

14. The Scheme Administrator shall be responsible for

    a. counting the votes submitted at the Scheme Meeting;

b. providing the Chairperson with a certificate setting out the votes submitted at such Scheme Meeting.

15. For the purposes of voting at the Scheme Meeting on the resolutions to approve the Scheme, Admitted Liabilities (as defined in the Scheme) of a Scheme Creditor shall be calculated as at the Record Time, being **10:00 (New York time)** on the day of the Scheme Meeting, or if the Scheme Meeting is adjourned then by **10:00 (New York time)** on the day which is one Business Days prior to the date of the adjourned meeting, based on information confidentially provided to the Scheme Company by the Scheme Administrator.

16. If the Scheme is approved at the Scheme Meeting by the required statutory majorities:

    a. The Chairperson is directed to file a report on the Scheme Meeting, and the voting, prior to the Court hearing to sanction the Scheme; and

    b. The Application is adjourned to a further hearing on or after **15 September 2022** to be listed urgently with a time estimate of 1 hour for the Court to consider the sanction of the Scheme.

17. The Chairperson and/or the Scheme Company shall have liberty to apply for such further or amended directions as may be considered necessary or appropriate.

18. Eleanor Fisher has been validly appointed as the Scheme Company's foreign representative (the "**Foreign Representative**"), including as that term is defined in section 101(24) of the United States Bankruptcy Code, with authority to commence, if and when needed, any ancillary recognition or other proceeding in support of the Scheme, including but not limited to proceedings before a United States Bankruptcy Court seeking an order recognising these proceedings in respect of the Scheme, enforcing the Scheme and of any order of this Court sanctioning the Scheme within the territorial jurisdiction of the United States under Chapter 15 of the U.S. Bankruptcy Code.

19. The Foreign Representative is authorised on behalf of the Scheme Company to take any and all actions to execute, deliver, certify, file and/or record and perform any and all

documents, agreements, instruments, motions, affidavits, applications for approvals or rulings of governmental or regulatory authorities, or certificates, and to take any and all steps deemed by the Foreign Representative to be necessary or desirable to carry out the purpose and intent of each of the Schemes including, for the avoidance of doubt, filing any petition or other request for relief intended to be filed under Chapter 15 of the U.S. Bankruptcy Code and/or under other relevant local laws, to the extent required.

BY THE COURT

Dep. **REGISTRAR**

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM No. BVIHC (COM) 2021/0061

IN THE MATTER OF OLINDA STAR LTD. (in Provisional Liquidation)
AND
IN THE MATTER OF THE INSOLVENCY ACT, 2003
AND
IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

OLINDA STAR LTD.

(in Provisional Liquidation)

Applicant

CONVENING DIRECTIONS ORDER

Ogier

Ritter House
Wickham's Cay II
Road Town, Tortola
British Virgin Islands
VG1110
Tel.: +1 284 852 7300
Fax.: +1 284 494 0883

Ref.: GRC/DMT/JOHNM/174287.000015
Legal Practitioners for the Applicant

EXHIBIT G

Scheme Notice

NOTICE OF COURT CONVENED MEETING

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS

COMMERCIAL DIVISION

CLAIM NO: BVIHC (COM) 2021/0061

IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

AND

IN THE MATTER OF OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

Terms used in this Notice have the same meanings as in the scheme circular (the **Scheme**) relating to the proposed scheme of arrangement between Olinda Star Ltd (in Provisional Liquidation) (the **Company** or **Olinda**) and the Scheme Creditors (as defined therein) under section 179A of the BVI Business Companies Act, 2004 (the **Act**).

NOTICE IS HEREBY GIVEN that, by an order dated 18 July 2022 (the **Order**) made in the above matter, the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands (the **BVI Court**) has directed a meeting (the **Court Convened Meeting**) to be convened between the Company and the Scheme Creditors for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement (the **Scheme of Arrangement**) pursuant to section 179A of the Act proposed by the Company and to be made between the Company and the Scheme Creditors and that such Court Convened Meeting will be held at the offices of White & Case, 1221 6th Avenue, New York, 10020, United States of America and via webinar or other virtual means at 13:00 (New York time) on 13 September 2022.

All Scheme Creditors are requested to attend the Court Convened Meeting either in person (either physically or virtually), by an authorised representative (if a corporation), or by proxy.

To be approved, the Scheme of Arrangement must be approved by a majority in number representing 75% in value of the creditors or class of creditors present and voting either in person or by proxy at the meeting. At the Court Convened Meeting the following resolution will be proposed:

"THAT the Scheme of Arrangement proposed by the Company, particulars of which are set out in the Scheme, a copy of which has been tabled at this Court Convened Meeting, be approved subject to any modification, addition or condition which the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands may think fit to approve or impose which would not directly or indirectly have a material adverse effect on the rights of the Scheme Creditors."

A copy of the Scheme of Arrangement and a copy of the Scheme explaining the effect of the Scheme of Arrangement are incorporated into the composite document of which this notice forms part. A copy of such document has been made available to the Scheme Creditors through the DTC's Legal Notice System (in respect of the Existing Notes) and sent to Banco Bradesco at Banco Bradesco S.A., Grand Cayman Branch, 75 Fort Street, Appleby Tower, 5th floor

Georgetown, KY1-1109, Grand Cayman, Cayman Islands (in respect of the Existing Bradesco Credit Agreements); and uploaded by the Scheme Company to the "Olinda Restructuring" section of Constellation Holding's website at:

https://www.theconstellation.com/Download.aspx?Arquivo=/nPfsv17RoC9zkl5cSyaVw==&IdCanal=GgZrgRjwxBRA+vpj1rBOlg==

Voting Record Time

Entitlement to attend and vote at the Court Convened Meeting and the number of votes attributable to an individual Scheme Creditor will be as set out in the Scheme.

Voting Procedures

Scheme Creditors may vote in person, by a duly authorised representative or by proxy at the Court Convened Meeting in accordance with the voting instructions more particularly set out in the Scheme. A Scheme Creditor that has a beneficial or contingent interest as a Noteholder in relation to the Existing Notes or an interest in relation to the Existing Bradesco Credit Agreements who wishes to vote at the Court Convened Meeting is requested to liaise with the Scheme Administrator in accordance with the instructions contained in the Voting and Proxy Forms and, in any event, so as to be received by **13:00 (New York time) on 12 September 2022** (the **Submission Deadline**).

A Scheme Creditor on whose behalf a duly completed Voting and Proxy Form is submitted before the Submission Deadline may still attend the Court Convened Meeting in person. If a Scheme Creditor intends to attend the Court Convened Meeting, it may amend its voting instructions provided in a previously submitted Voting and Proxy Form by submitting a new validly completed Voting and Proxy Forms to the Chairman of the Court Convened Meeting before the start of the Court Convened Meeting.

The Trustee is a Scheme Creditor for the purpose of the Scheme. However, under the terms of the voting rights set out in the Scheme it will be considered not to have any votes vote at the Court Convened Meeting.

Any Scheme Creditor who wishes to be represented in person at the Court Convened Meeting (or its proxy) will be required to register its attendance at the Court Convened Meeting prior to its commencement. Registration will commence at 12:00pm (New York time) on 13 September 2022. A passport will be required as proof of personal identity to attend the Court Convened Meeting and, in the case of a corporation, evidence of corporate authority (for example, a valid power of attorney and/or board minutes). Each proxy must bring to the Court Convened Meeting a copy of the Voting and Proxy Form of the Scheme Creditor having been duly completed authorising him or her to act as proxy on behalf of the Scheme Creditor and evidence of personal identity. For persons wishing to attend virtually details of how to be attend virtually will be provided upon their registration for attendance.

If appropriate personal identification is not produced, that person will only be permitted to attend and vote at the Court Convened Meeting at the discretion of the Chairman of the Court Convened Meeting.

Chairman of the Court Convened Meeting

By the said Order, the BVI Court has appointed Eleanor Fisher, to act as the Chairman of the Court Convened Meeting and has directed the Chairman of the Court Convened Meeting to report the result thereof to the BVI Court.

If the requisite majority of Scheme Creditors approve the Scheme of Arrangement at the Court Convened Meeting, the BVI Court will convene a hearing to consider whether to sanction the Scheme of Arrangement ("**Scheme Sanction Hearing**"). Scheme Creditors are entitled (but not obliged) to attend the Scheme Sanction Hearing, through legal counsel, to support or oppose the sanction of the Scheme of Arrangement. The Scheme Sanction Hearing is expected to take place shortly after the Court Convened Meeting at such date and time as the Scheme Administrator or Company may notify to Scheme Creditors.

A Scheme will be legally binding on the Scheme Creditors, including both those voting against the Scheme and those not voting) if:

(a) a majority in number representing 75% in value of the creditors or class of creditors present and voting whether in person (virtually or physically) or by proxy at the Court Convened Meeting agrees to the Scheme of Arrangement;

(b) the BVI Court sanctions the Scheme at the Scheme Sanction Hearing; and

(c) a copy of the BVI Court order sanctioning the Scheme is filed with the BVI Registrar of Companies.

For further information please contact the Scheme Administrator using the contact details below:

Eleanor Fisher acting as joint provisional liquidator of the Company pursuant to the 2021 Insolvency Protocol

Address: EY Cayman Ltd. PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands

Telephone: +1 (345) 814 8256

Email: OlindaStarLtd@ey.com (please reference "Olinda Scheme" in the subject line)

EXHIBIT H

Scheme of Arrangement

BVI SCHEME OF ARRANGEMENT

PURSUANT TO

SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

- PROPOSED BY -

OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

- TO THE -

SCHEME CREDITORS

BACKGROUND

Olinda Star Ltd (In Provisional Liquidation) (the "**Company**" or "**Olinda**") is a BVI business company incorporated and existing under the BVI Business Companies Act, 2004 (as amended) (the "**Act**").

The Company is an asset holding company whose primary asset is a drilling rig. It is part of a group of companies (the "**Group**") engaged in a global oil and gas enterprise and is a wholly-owned indirect subsidiary of Constellation Oil Services Holding S.A. (the "**Parent**").

On 29 November 2018, the Parent and certain of its subsidiaries (the "**RJ Debtors**") entered into a plan support agreement with certain of their stakeholders (as amended and restated on 21 February 2019 and as further amended and restated on 28 June 2019, the "**Original Plan Support Agreement**").

Consistent with the Original Plan Support Agreement, on 6 December 2018, the Parent and RJ Debtors elected to commence a centralised restructuring in Brazil through a judicially supervised Brazilian *recuperação judicial* under Brazilian Federal Law No 11.101 of February 9, 2005 (the "**Brazilian Bankruptcy Law**") (the "**RJ**") before the 1st Business Court of the Judicial District of the Capital of the State of Rio de Janerio (the "**Brazilian RJ Court**"). The original plan of reorganisation of the RJ Debtors (the "**Original RJ Plan**") was confirmed by the Brazilian RJ Court on 1 July 2019 and was enforced by the United States Bankruptcy Court for the Southern District of New York (the "**US Bankruptcy Court**") by orders entered on 5 December 2019 and 3 April 2020 in the Chapter 15 proceeding pending before the US Bankruptcy Court under Case No. 18-13952 (MG). The restructuring transactions provided for pursuant to the Original RJ Plan were substantially implemented on 18 December 2019, and Olinda acceded to the restructuring transactions pursuant to the Original RJ Plan by way of a BVI scheme of arrangement, that was implemented on 7 April 2020.

Following implementation of the Original RJ Plan, on 7 April 2021, upon request from the RJ Debtors, the Brazilian RJ Court entered an order extending the supervision period of the Brazilian RJ Proceeding, suspending the obligations under the Original RJ Plan and imposing a stay against actions by creditors to enforce such obligations. Extension of the supervision period was intended to provide the RJ Debtors time to negotiate and present an amendment to the Original RJ Plan without disruptions to their business activities Similarly, following a hearing on April 8, 2021 Ms. Eleanor Fisher and Mr. Roy Bailey were appointed as joint provisional liquidators of the Company (the "**BVI Proceeding**"), to protect the Company and provide support to the Brazilian RJ Proceeding during the extended supervision period and to ultimately ensure the successful implementation of the RJ Plan Amendment (as defined below) in the British Virgin Islands with respect to the Company.

On 24 March 2022, upon the unanimous approval of the voting creditors at the general meeting of creditors, the Original RJ Plan was amended (the "**RJ Plan Amendment**") consistent with the terms and conditions of the plan support agreement, dated 24 March 2022 (the "**PSA**"), as agreed among the RJ Debtors and each of their key stakeholders.

On 28 March 2022, the Brazilian RJ Court confirmed the RJ Plan Amendment (the "**Brazilian Confirmation Order**"), and, on 3 May, 2022, the U.S. Bankruptcy Court entered an order granting full force and effect to the RJ Plan Amendment and the Brazilian Confirmation Order in the United States.

Pursuant to the terms of the PSA and RJ Plan Amendment further restructuring and recapitalisation transactions have been negotiated between, among others, the RJ Debtors and the Scheme Creditors (as defined below) on the terms and conditions as set out in the PSA, which includes but is not limited to the following documentation:

(a) the RJ Plan Amendment;

(b) a term sheet attached as an exhibit to the RJ Plan Amendment (the "**RJ Plan** Amendment **Term Sheet**"); and

(c) a commitment agreement attached as an exhibit to the RJ Plan Amendment Term Sheet.

in each case as may be later amended, modified, revised, or supplemented in accordance with Section 12 of the PSA (such transactions as described in the PSA and as contemplated in the other Restructuring Documents (as defined in the PSA), together, the "**Restructuring Transactions**").

As part of the Restructuring Transactions, the Group's capital structure is to be "deleveraged" and new money financing will be provided to the Parent and/or certain of its subsidiaries by certain parties (the "**New Money Lenders**") in return for the issuance, upon the effective date of the RJ Plan Amendment (the "**Plan Effective Date**"), to such New Money Lenders of certain notes described as the "New Priority Lien Notes" in the RJ Plan Amendment Term Sheet. The New Money Lenders will invest new money into the Group's business to better capitalize it for go-forward operations.

By Order of the BVI Court dated 8 April 2021 (the "**JPL Appointment Order**"), Ms. Eleanor Fisher and Mr. Roy Bailey were appointed to the Company as Joint Provisional Liquidators (the "**JPLs**"). The JPL Appointment Order authorised the JPLs to enter into an Insolvency Protocol dated 19 April 2021, which, to the extent permitted by law, governs the relationship between the JPLs and Olinda (the "**2021 Insolvency Protocol"**) and which is annexed hereto as Schedule 6.

Although the Company was originally proposed as an RJ Debtor, it was ultimately removed as an RJ Debtor based on a judicial determination that the Brazilian RJ Court lacked jurisdiction to restructure the Company's debt obligations. Therefore, the restructuring of the Company's debts has required a separate BVI scheme of arrangement under Section 179A of the Act in relation to the Company, as was the case in 2020 when the terms of the RJ Plan were implemented separately in relation to the Company by way of scheme of arrangement. Now therefore then, given that the Company is intended to participate in the Restructuring Transactions pursuant to the terms of the PSA and given that the Company still sits outside the RJ Plan as not being an RJ Debtor, it is now proposed that the Company restructure its debt obligations by way of a scheme of arrangement in accordance with Section 179A of the Act on terms that mirror the Restructuring Transactions. The basis and the terms of the restructuring of the debt obligations of the Company to be made pursuant to this Scheme (as defined below) have been set out in the RJ Plan Amendment Term Sheet, a copy of which is attached at Schedule 5.

The filing of the Scheme in the BVI is not in any way intended to prejudice, limit, impair or otherwise affect the RJ Debtors' rights, claims, defences, objections, appeals and remedies, present or future, in relation to the RJ Plan Amendment or to pursue the re-entry of Olinda in the RJ Plan Amendment.

IMPORTANT NOTICE TO SCHEME CREDITORS

This document (the "**Scheme**") sets out the terms of the proposed scheme of arrangement for the Scheme Creditors (as defined below). It is being sent to persons whom the Company believes to be a Scheme Creditor as at the Record Time. If you have assigned, sold, or otherwise transferred, or assign, sell or otherwise transfer, your interests as a Scheme Creditor before the Record Time, you must immediately forward this Scheme and the accompanying documents to the person or persons to whom you have assigned, sold or otherwise transferred, or assign, sell or otherwise transfer, your interests as a Scheme Creditor.

This Scheme is provided in order to and is intended to mirror the terms of the RJ Plan Amendment as set out in the RJ Plan Amendment Term Sheet. A copy of the RJ Plan Amendment is attached to this Scheme at Schedule 4. The RJ Plan Amendment sets out the further background and information on the Group and may contain forward looking-statements. These forward looking statements can be identified by the fact that they do not relate only to historical or current facts. Forward looking statements often use words such as "anticipate", "target", "expect", "estimate", "intend", "plan", "goal", "believe", based on numerous assumptions and assessments at the time of the RJ Plan Amendment by the Issuer, in consultation with professional advisors, on historical trends, current conditions, expected future developments and other factors which such advisors believe appropriate. By their nature, forward looking statements involve risk and uncertainty, and the factors described in the context of such forward looking statements in the Scheme and the RJ Plan Amendment could cause actual results and developments to differ materially from those expressed in or otherwise implied by such forward looking statements.

Should one or more of these risks or uncertainties materialise or should underlying assumptions prove incorrect, actual results may vary materially from those described herein. None of the Issuer or the Company assumes any obligation to update or correct or revise any forward looking statements contained in this Scheme or the RJ Plan Amendment to reflect any change of expectations with respect thereto or any change in event, situation or circumstances on which any such forward looking statement was based on actual results, and each such person expressly disclaims any intention or obligation to take any such action.

WARNING: While this Scheme will be considered by the BVI Court in the British Virgin Islands and the Scheme will not become effective unless sanctioned by the BVI Court, the contents of this Scheme have not been reviewed by any regulatory authority in the British Virgin Islands, in the United States or in any other jurisdiction. Neither the SEC nor any other governmental body has approved or disapproved of the Scheme or determined if this Scheme is truthful or complete. Any representation to the contrary is a criminal offence.

Please note, this Scheme is not intended to be and should not be construed as investment, accounting, financial, legal or tax advice by or on behalf of the Company, or its directors, officers, agents, attorneys or employees. You are recommended to seek your own independent financial, credit, accounting, legal and/or tax advice immediately from your financial, legal and/or tax advisers regarding the Scheme, the contents of this Scheme, and what action you should take (or refrain from taking).

This Scheme is accompanied by a number of documents, including voting instructions and a proxy form (as set out in the "Voting and Proxy Form" further defined below). It is important that you read this Scheme carefully for information about the Scheme and the overall restructuring of the Group envisioned by the RJ Plan Amendment and RJ Plan Amendment Term Sheet and that you complete and return the proxy form in accordance with the instructions therein.

Scheme Content

Nothing in the Scheme or any other document issued with or appended to it should be relied on for any purpose other than to make a decision with respect to the Scheme. In particular and without limitation, nothing in this Scheme or any other document issued with or appended to it should be relied on in connection with the purchase of any bonds, notes or assets of the Issuer. This Scheme has been prepared in connection with the proposal in relation to a scheme of arrangement under Section 179A of the Act by the Company to the Scheme Creditors.

The information contained in this Scheme has been prepared based upon information available to the Company as at the date of this Scheme. The Company has taken all reasonable steps to ensure that this

Scheme contains the information reasonably necessary to enable the Scheme Creditors to make an informed decision about the effect of the Scheme on them.

Nothing contained in this Scheme shall be deemed to be a forecast, projection or estimate of the Issuer's future financial performance except where otherwise specifically stated.

Any summary of the principal provisions of the Scheme is qualified in its entirety by reference to the RJ Plan Amendment itself and the RJ Plan Amendment Term Sheet. Each Scheme Creditor is advised to read and consider carefully the text of the Scheme, the RJ Plan Amendment Term Sheet and the RJ Plan Amendment. In the event of a conflict between the information and terms described in the Scheme and the RJ Plan Amendment or RJ Plan Amendment Term Sheet, the terms of the RJ Plan Amendment and the RJ Plan Amendment Term Sheet shall prevail, as applicable.

Further copies of this Scheme can be obtained by contacting:

Eleanor Fisher, in her capacity as joint provisional liquidator of the Company at EY Cayman Ltd. PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands or by telephone to +1 (345) 814 8256 or by email to OlindaStarLtd@ey.com (please reference “Olinda Scheme” in the subject line).

1. **DEFINITIONS**

1.1 In this Scheme, unless inconsistent with the subject or context, the following words shall have the following meanings:

2021 Insolvency Protocol	has the meaning set out in the Background;
Act	has the meaning set out in the Background;
Ad Hoc Group	means that certain ad hoc group of Consenting 2024 Noteholders (as defined below) represented by, among others, Milbank LLP and Appleby;
Admitted Liability	means the amount of any debt (including judgment debt) or any other contractual liability (including any interest and principal amounts) agreed between the Company and each Scheme Creditor as being due beneficially to that Scheme Creditor from the Company at the RJ Closing Date, whereas: (i) "debt" or "liability" does not include a debt or liability which would be statute barred on the RJ Closing Date under BVI law or the laws of any other jurisdiction which applies to it; and (ii) for the avoidance of doubt the expression Admitted Liability does not include a Scheme Expense;
Banco Bradesco	means Banco Bradesco S.A., Grand Cayman Branch
Book Entry Interest	means a beneficial interest in a Global Note (as defined in the Existing Notes Indenture) by or through a Participant (as defined in the Existing Notes Indenture);
Bradesco Guarantee and Security	means the guarantees by the Company of (i) the loans and other obligations under the Restructured Bradesco Credit Agreement, and (ii) the obligations under the Bradesco Reimbursement Agreement, which guarantees shall be secured by the New Security in accordance with the priorities provided in the Non-Priority Intercreditor Agreement;
Bradesco Reimbursement Agreement	means the reimbursement agreement to be dated on or about the RJ Closing Date, entered into by and between Banco Bradesco, the Parent and certain guarantors named therein in connection with the issuance of the Evergreen L/C (as defined in the Restructured Bradesco Credit Agreement)

Brazilian RJ Court	has the meaning set out in the Background;
Business Day	means any day other than Saturday, Sunday or a public holiday on which banks are open in the BVI, New York and Brazil for general banking business or such other place where the payments pursuant to the terms of this Scheme are to be received by the Scheme Creditors;
BVI	has the meaning set out in the Background;
BVI Court	means the Eastern Caribbean Supreme Court in the BVI;
Company or **Olinda**	has the meaning set out in the Background;
Consenting 2024 Noteholders	means the holders of Existing Notes that have executed the PSA or a joinder thereto (or any permitted transferee thereof under the PSA);
Court Convened Meeting	means a meeting of the Scheme Creditors of the Company or any other meeting of the Company convened with the leave of the BVI Court in exercise of its powers pursuant to Section 179A of the Act including to consider and, if thought fit, to approve this Scheme;
Dispute Resolution Procedure	means the procedure for the resolution of disputes set out in Clause 20 of this Scheme;
Effective Date	means the date on which an office copy of the Sanctioning Order shall be filed with the Registrar of Corporate Affairs in the BVI pursuant to section 179A(4) of the Act;
Existing Bradesco Credit Agreements	means (i) that certain credit agreement dated December 18, 2019 among Constellation Overseas Ltd, as borrower, Constellation Oil Services Holding S.A., as guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto, and Banco Bradesco, as administrative agent (as amended, restated, supplemented or otherwise modified from time to time) and (ii) that certain amended and restated credit agreement dated December 18, 2019 among Constellation Overseas Ltd, as borrower, Constellation Oil Services Holding S.A., as guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto, and Banco Bradesco, as administrative agent (as amended, restated, supplemented or otherwise modified from time to time). Olinda became a party as a guarantor through a joinder agreement dated 7 April 2020 and the definition Existing Bradesco Credit Agreements includes the joinder pursuant to which Olinda became a party;
Existing Notes	means the Parent's (i) 10.00% PIK / Cash Senior Secured Notes due 2024, (ii) 10.00% PIK / Cash Senior Secured

	Third Lien Notes due 2024 and (iii) 10.00% PIK / Cash Senior Secured Fourth Lien Notes due 2024, in each case issued under the applicable Existing Notes Indenture;
Existing Notes Indentures	means those certain indentures dated December 18, 2019 (as amended, restated, supplemented or otherwise modified), with Wilmington Trust, National Association serving as trustee, paying agent, transfer agent and registrar, in respect of each series of Existing Notes and pursuant to which the Company is a guarantor;
First Lien Notes Indenture	means the indenture to be dated on or about the RJ Closing Date, between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association governing the First Lien Notes;
First Lien Notes	the Parent's 3.00% / 4.00% Cash/PIK Toggle Senior Secured Notes due 2026;
General Security Agreement	means the general security agreement to be dated on or about the RJ Closing Date, between the grantors party thereto and and Wilmington Trust, National Association;
Group	has the meaning set out in the Background;
Intercreditor Agreements	means the Master Intercreditor Agreement and the Non-Priority Intercreditor Agreement;
Issuer	means Constellation Oil Services Holding S.A., a public limited liability company (*société anonyme*) incorporated under the laws of the Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies' Register under number B163424;
JPL Appointment Order	has the meaning set out in the Background;
JPLs	has the meaning set out in the Background;
Liability	means any debt or liability to which the Company is subject as at the RJ Closing Date arising as a result of it being a guarantor under the Existing Notes. In relation to the above for any Liability: (i) it is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; (ii) "liability" includes (subject to (i) above) a liability to pay money or money's worth, including any liability under any enactment, any liability for breach of trust, any liability in contract, tort or bailment, and

any liability arising out of an obligation to make restitution;

(iii) in determining whether any liability in tort is a liability, the Company is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued;

(iv) "debt" or "liability" does not include a debt or liability which would be statute barred at the RJ Closing Date under the BVI law or the laws of any other jurisdiction which applies to it; and

(v) for the avoidance of doubt the expression Liability does not include a Scheme Expense;

Liquidation Event means the making of an order for the winding up of or the passing of any resolution for the winding up of the Company under the Act or the BVI Insolvency Act, 2003 (as the case may be) or the taking in relation to the Company of any analogous step or analogous proceedings in any jurisdiction to which it is subject;

Master Intercreditor Agreement means the intercreditor agreement between the Parent, the subsidiary guarantors from time to time party thereto, Wilmington Trust, National Association and Vistra USA LLC;

New Notes means the notes issued pursuant to the terms of the Priority Lien Notes Indenture, the notes issued pursuant to the First Lien Notes Indenture and the notes issued pursuant to the terms of the Second Lien Notes Indenture;

New Guarantees means the obligations the Company will owe then or in the future under the New Notes when it accedes to the Priority Lien Notes Indenture, the First Lien Notes Indenture and the Second Lien Notes Indenture;

New Security means the security provided pursuant to the documents listed at Schedule 1, which will consist of and be substantially consistent with the terms of the Existing Notes Security;

New Money Lenders means members of the Ad Hoc Group in their capacity as such on account of purchasing the Priority Lien Notes;

Non-Priority Intercreditor Agreement means the intercreditor agreement between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association and Banco Bradesco;

Noteholder means a person with a Book Entry Interest in each series

	of the Existing Notes at the Record Time;
Notes Registered Holder Nominee	means Cede & Co., as nominee for the Notes Registered Holder;
Notes Registered Holder or **DTC**	means the Depository Trust Company;
Order	means any order made by the BVI Court or any other court in any other relevant jurisdiction, including an order to stay any Proceedings;
Parent	has the meaning set out in the Recitals;
Post	means airmail or a generally recognised commercial courier service;
Priority Lien Notes Indenture	means the indenture to be dated on or about the RJ Closing Date, between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association governing the Priority Lien Notes;
Priority Lien Notes	Means the Parent's 13.5% Senior Secured Notes due 2025;
Proceedings	means any form of proceedings in any jurisdiction or forum, including without limitation, any demand, legal proceedings, arbitration, alternative dispute resolution, adjudication, mediation, seizure, distraint, forfeiture, re-entry, execution or enforcement of judgment or any step taken for the purpose of creating or enforcing a lien;
Record Time	means 10:00 (New York time) on 13 September 2022.
Restructured Bradesco Credit Agreement	means the Amended and Restated Credit Agreement, to be dated on or about the RJ Closing Date, among Constellation Oil Services Holding S.A., as borrower, Constellation Overseas Ltd, as guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto and Banco Bradesco, as administrative agent, as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any one or more agreements or indentures extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or indenture or indentures or any successor or replacement agreement or agreements or indenture or indentures or altering the maturity thereof.

RJ	has the meaning set out in the Background;
RJ Closing Date	means the date whereby the Restructuring Transactions will have been implemented pursuant to the terms of the PSA and the RJ Plan Amendment;
RJ Debtors	has the meaning set out in the Background;
RJ Plan Amendment	has the meaning set out in the Background and is as attached at Schedule 4 to this Scheme;
RJ Plan Amendment **Term Sheet**	has the meaning set out in the Background and is attached to Schedule 5 of this Scheme;
Sanctioning Order	has the meaning set out in Clause 3.1(b);
Scheme	means this scheme of arrangement together with any modification of or addition to it which is approved or imposed by the BVI Court or the Scheme Creditors;
Scheme Administrator	means Eleanor Fisher in her capacity as JPL;
Scheme Creditor	means: (i) the Trustee; (ii) Banco Bradesco; (iii) the Notes Registered Holder, as the registered holder of the Global Notes (as defined in the Existing Indentures) as of the Record Time; (iv) the Notes Registered Holder Nominee, as nominee for such Notes Registered Holder; and (v) the Noteholders, as contingent creditors and/or in respect of all and any claims or rights they or each have pursuant to the Existing Notes Indentures;
Scheme Implementation Documents	means the New Security (and any accession instrument thereto), the Priority Notes Indenture (and any accession instrument thereto to be executed by the Company), the First Lien Notes Indenture (and any accession instrument thereto to be executed by the Company), the Second Lien Notes Indenture (and any accession instrument thereto), the Restructured Bradesco Credit Agreement (and any accession instrument thereto), the Bradesco Reimbursement Agreement (and any accession instrument thereto), those other documents listed at Schedule 2 (copies or draft copies of which will be appended to notice convening the Court Convened

	Meeting) and any other agreement or instrument contemplated or permitted by, or ancillary to, any of the foregoing;
Scheme Meeting	means any meeting of the Scheme Creditors (other than a Court Convened Meeting) convened in accordance with the terms of the Scheme;
Scheme Terms	means the terms upon which the Admitted Liabilities will be satisfied as set out in this Scheme;
Second Lien Notes Indenture	means the indenture to be dated on or about the RJ Closing Date, between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association governing the Second Lien Notes;
Second Lien Notes	means the Parent's 0.25% PIK Senior Second Lien Notes due 2050;
Trustee	means Wilmington Trust, National Association;
US Dollars or **US$** or **USD**	means the lawful currency of the United States of America; and
Voting and Proxy Form	means the documents entitled "Voting and Proxy Form " as set out in Schedule 3 of this Scheme.

1.2 In this Scheme (and unless the context otherwise requires):

(a) references to clauses are references to clauses of this Scheme and references to pages and Schedules are references to pages and Schedules of this Scheme;

(b) references to a person shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons or any state or agency thereof;

(c) references to the date of a document, form, notice or report mean the date shown on such document, form, notice or report as its date;

(d) the singular includes the plural, the masculine, the feminine and vice versa;

(e) headings are given for ease of reference only and shall not affect the interpretation of this Scheme; and

(f) references to any statute or statutory provision include the same as amended, re-enacted or consolidated.

2. RELEASE OF EXISTING NOTES AND ISSUANCE OF THE NEW GUARANTEE OF NEW NOTES

2.1 On the Effective Date:

(a) the Company will be released from the Existing Notes Guarantee and all other obligations under the Existing Notes Indenture and the Existing Notes will be terminated;

(b) the Company will accede to the Priority Notes Indenture, the First Lien Notes Indenture and the Second Lien Notes Indenture in accordance with the terms set out therein and become a guarantor under the New Notes pursuant to the New Notes Guarantee. The New Notes Guarantee will be secured by the New Notes Security in accordance with the priorities provided in the Intercreditor Agreements;

(c) all of the security, liens and pledges granted by the Company over the assets and shares of shares in the Company in relation to the Existing Notes and Existing Bradesco Credit Agreements will be released by the Scheme Creditors and the New Security will be granted over the assets and shares of the Company in accordance with the New Notes, the Restructured Bradesco Credit Agreement and the Non-Priority Intercreditor Agreement; and

(d) the Company will guarantee the obligations under the Restructured Bradesco Credit Agreement and the Bradesco Reimbursement Agreement, which guarantees shall be secured by the Bradesco Guarantee and Security in accordance with the priorities provided in the Non-Priority Intercreditor Agreement.

2.2 Following the completion of the matters set out in Clauses 2.1, all of the Scheme Creditors will remain creditors of the Company.

2.3 The matters set out in Clause 2.1 will be implemented by, *inter alia*, the execution and carrying out of the Scheme Implementation Documents, and from the Effective Date and notwithstanding any term of any relevant document, the Company and each Scheme Creditor shall be obliged to enter into and execute each Scheme Implementation Document (and those other documents referred to at Clauses 2.4(b)(ii) to (iii) below) to which it is a party at the Effective Date, which such documents shall be in a form acceptable to the Scheme Creditors, and furthermore each Scheme Creditor hereby irrevocably authorises, appoints and instructs:

(a) the Company to enter into the Scheme Implementation Documents, and any other documents referred to at clauses 2.4(b)(ii) to (iii), to which the Company is a party; and

(b) in the event of any delay in execution by the Scheme Creditor, the Scheme Administrator as its true and lawful agent and attorney (and as agent and attorney of any person to whom a Scheme Creditor has assigned or transferred any claim or right) to, for and on behalf of each Scheme Creditor:

(i) enter into, execute and deliver (whether as a deed or otherwise) any of the Scheme Implementation Documents to which is it expressed to be a party;

(ii) enter into, execute and deliver (whether as a deed or otherwise) for and on behalf of each Scheme Creditor, any document, notice or instruction as may be necessary or appropriate to give effect to the instruction to any person in respect of the entry into, implementation or carrying out of the Scheme Implementation Documents; and

(iii) enter into, execute and deliver (whether as a deed or otherwise) any other document and give any other notice, confirmation, consent, order, instruction or direction as may be reasonably necessary or appropriate in the discretion of the Company (acting reasonably) to release and/or otherwise give effect to the Scheme and/or the Scheme Implementation Documents, provided in each case that any such document (i) is consistent with the RJ Plan Amendment Term Sheet and the RJ Plan Amendment and (ii) would not materially, adversely or disproportionately affect the rights of any Scheme Creditor in any manner that is not otherwise contemplated by the Scheme, the Scheme Implementation Documents, the RJ Plan Amendment Term Sheet or the RL Plan Amendment,

provided that the documents referred to above will only become effective in accordance with their respective terms, whereupon they shall be binding on all Scheme Creditors and each of the other parties thereto.

3. EFFECTIVE DATE AND CONDITIONALITY

3.1 This Scheme shall come into operation on the Effective Date if:

(a) it is approved by the Scheme Creditors in accordance with Clause 3.2;

(b) it has been sanctioned by an order of the BVI Court (the "**Sanctioning Order**"); and

(c) the Sanctioning Order is filed with the Registrar of Corporate Affairs in the BVI pursuant to Section 179A(4) of the Act.

3.2 This Scheme shall be approved by the Scheme Creditors if it is approved at a Court Convened Meeting by a majority in number representing 75% in value of the Scheme Creditors or class of the Scheme Creditors present and voting either in person or by proxy, as prescribed by Section 179A(3) of the Act.

4. PURPOSE AND APPLICATION OF THIS SCHEME

4.1 The purpose of this Scheme is to restructure the debts of the Company so that they mirror the debt restructuring of the RJ Debtors in the RJ Plan Amendment in an efficient and timely manner in order to secure a better return for the Company's creditors than they would otherwise receive in the liquidation of the Company.

4.2 This Scheme shall only apply to the Admitted Liabilities.

5. ENFORCEMENT OF LIABILITIES

5.1 Each Scheme Creditor is deemed to acknowledge that the process of establishing the Scheme Creditors' debt restructuring by:

(a) the termination of the Existing Notes and the obligations thereunder;

(b) the accession by the Company to the New Notes and the provision by the Company of the New Notes Guarantee and the New Security; and

(c) the guarantee of the obligations under the Restructured Bradesco Credit Agreement in exchange for the guarantee of the obligations under the Existing Bradesco Credit Agreements and the obligations under the Bradesco Reimbursement Agreement, which guarantee shall be secured by the Bradesco Guarantee and Security,

pursuant to the terms of this Scheme, and consequently, the Admitted Liabilities, is fair and that, if it is approved by the requisite majorities of the Scheme Creditors and sanctioned by the BVI Court, the Company and all of the Scheme Creditors shall be bound by it.

5.2 Save as expressly provided for in this Scheme, no Scheme Creditor shall be entitled to take or continue any step or do or continue any act against or in respect of the Existing Notes, the New Notes, the Company or the Scheme Administrator after the Effective Date, for the purpose of obtaining payment, or establishing the quantum of any Liability from the Existing Notes or the Company.

6. SCHEME EXPENSES

6.1 The Company and each of the Scheme Creditors shall take all such steps as may be necessary to effect the terms set out in Clause 2 on the Effective Date.

6.2 All costs, charges and expenses of and incidental to the preparation, administration and implementation of this Scheme and the performance by the Scheme Administrator of their functions shall be Scheme Expenses and shall be payable by the Company, including, without prejudice to the generality of the foregoing:

(a) the cost of remunerating the Scheme Administrator in connection with the exercise and performance of the powers, duties and functions of the Scheme Administrator and JPL under this Scheme on a full indemnity basis;

(b) all liabilities, expenses, costs and disbursements incurred by the Company and the Scheme Administrator in the course of the exercise or performance of their respective powers, duties and functions under, or for the purpose of implementing, this Scheme on a full indemnity basis;

(c) all costs, charges and expenses incurred by the Company and the Scheme Administrator in connection with the negotiation and preparation of this Scheme (including, but not limited to, all legal, accounting, financial and other consultants' fees, expenses and other costs) on a full indemnity basis;

(d) any court and filing fees incurred in relation to this Scheme on a full indemnity basis;

(e) the costs of holding any Court Convened Meeting and any meetings of shareholders or directors of the Company convened to consider this Scheme and the costs of obtaining the sanction of the BVI Court and filing of the Sanctioning Order with the Registrar of Corporate Affairs in the British Virgin Islands on a full indemnity basis;

(f) the costs incurred in employing agents and professional advisers to advise or assist the Scheme Administrator and their staff in connection with the exercise and performance of their powers, duties and functions as Scheme Administrator on a full indemnity basis;

(g) the costs of summoning meetings of the Scheme Creditors in accordance with this Scheme or the Act and any costs of preparing advertising and sending out any notices or reports to be given by or to the Scheme Creditors or any other person under this Scheme or the Act and, at the discretion of the Scheme Administrator, on a case by case basis; and

(h) all taxes, duties, administrative, licence, listing, audit, filing, registration, directors' and other fees, costs and expenses incurred by this Scheme Administrator on behalf of the Company in connection with this Scheme on a full indemnity basis, with the Company providing the indemnity.

6.3 All costs, fees, charges, filing fees, expenses or any other disbursements of and incidental to the joint provisional liquidation of Olinda by either the JPLs or their advisors (the "**JPL Costs**") shall be irrevocably ratified and approved by Olinda and the creditors upon an affirmative vote on this Scheme of Arrangement.

6.4 In the event that there is any dispute in relation to the Scheme Expenses or JPL Costs, they will be remitted to the BVI Court for assessment.

7. RECOGNITION IN US CHAPTER 15 PROCEEDINGS

7.1 Following the Effective Date, the Scheme Administrator will, as Foreign Representative for the purposes of the US Bankruptcy Code, apply to the US Bankruptcy Court to have the BVI Proceeding and the

Scheme recognized pursuant to chapter 15 of title 11 of the US Bankruptcy Code and seek the entry of an order granting full force and effect to the Scheme and Sanctioning Order within the territorial jurisdiction of the United States.

7.2 The Scheme Creditors agree not to oppose any relief sought in the US pursuant to Clause 7.1.

8. SCHEME CREDITORS' AND THE COMPANY OBLIGATIONS

8.1 Each Scheme Creditor is to follow the debt restructuring in the terms of the RJ Plan Amendment and as if the Company was a party to the RJ Plan Amendment in each case in the manner set out in the RJ Plan Amendment Term Sheet.

8.2 The Company is to complete its debt restructuring as set out in the Scheme in the manner set out in the RJ Plan Amendment Term Sheet.

9. THE SCHEME ADMINISTRATOR

9.1 Eleanor Fisher in her capacity as a court appointed joint provisional liquidator pursuant to the 2021 Insolvency Protocol (a copy of which is attached at Schedule 6) shall act as Scheme Administrator in order to progress the terms of the Scheme.

9.2 The Scheme Administrator shall, subject to the provisions of this Scheme, have all the powers necessary to implement this Scheme and the Scheme Terms, and do all such other things as may be required for the proper implementation and management of this Scheme from time to time.

9.3 Nothing in this Scheme shall render the Scheme Administrator liable for any Liabilities or obligations of the Company.

9.4 The Scheme Administrator or any of them may resign their appointment at any time if they terminate their appointment as JPL with the BVI Court.

9.5 The office of a Scheme Administrator shall be vacated if the Scheme Administrator:

(a) dies;

(b) is convicted of an indictable offence;

(c) resigns office by notice in accordance with Clause 9.4;

(d) becomes bankrupt;

(e) becomes disqualified from acting as JPL; or

(f) is admitted to hospital because of mental health or becomes the subject of an order made by any court having jurisdiction whether in BVI or elsewhere in matters concerning his mental health.

9.6 If the office of the Scheme Administrator is vacated in accordance with Clause 9.5 above the Company shall be entitled to appoint replacement Scheme Administrator provided that any such new appointment is consented to in writing by a 75% majority in value of Scheme Creditors.

10. SPECIFIC POWERS AND OBLIGATIONS OF THE SCHEME ADMINISTRATOR

10.1 In carrying out their duties and functions under this Scheme, the Scheme Administrator shall (without prejudice to the full terms of this Scheme) be empowered:

(a) to have full access to all such information as they may from time to time require in relation to the affairs of the Company or the operation of this Scheme and to all books, papers, documents and other information contained or represented in any format whatsoever in the possession or under the control of the Company. Such information, books, papers and documents may be disclosed by the Scheme Administrator to the Scheme Creditors if they consider such disclosure would assist the implementation of this Scheme in accordance with its terms;

(b) to employ and remunerate, as a Scheme Expense, accountants, actuaries, lawyers and other professional advisers or agents in connection with this Scheme;

(c) to petition the courts in any jurisdiction to obtain recognition or enforcement of this Scheme or to bring, commence or defend any Proceedings in the name of and, insofar as is permitted by law, on behalf of the Company in any matter affecting the Company in any jurisdiction, or to prevent the continuation or commencement of any Proceedings against the Company or its Property;

(d) to apply to the BVI Court for directions in relation to any particular matter arising under, or in the course of the operation of this Scheme;

(e) to do all acts and to execute in the name and, insofar as permitted by law, on behalf of the Company any deed, transfer, instrument, cheque, bill of exchange, receipt or other document which may be necessary for or incidental to the full and proper implementation of this Scheme;

(f) to procure the presentation of a petition for the liquidation of the Company or to request the directors and shareholders of the Company to resolve to liquidate the Company;

(g) to propose, where they consider it to be in the interests of the Company in relation to a defined class of creditor or member, a further scheme of arrangement under Section 179A of the Act. In the event such a scheme of arrangement as is referred to in this clause is proposed, the Scheme Administrator shall, subject to the jurisdiction of the BVI Court, only be required to convene a meeting or meetings under Section 179A of the Act of those creditors of the Company to whom it is proposed such a scheme should apply. The Scheme Administrator may propose such a scheme of arrangement in respect of any class of creditor or member on any number of occasions;

(h) to do all other things incidental to the exercise of the foregoing powers, including the exercise of any powers analogous to those which the Scheme Administrator would have had under Section 179A of the Act, in order to effect the restructuring of the Company's debt in accordance with the terms of the RJ Plan Amendment; and

(i) to exercise any other powers necessary for or incidental to the full and proper implementation of this Scheme.

11. COURT CONVENED MEETING AND SCHEME CREDITORS VOTING RIGHTS

11.1 The Court Convened Meeting will be held at the offices of White & Case LLP at 1221 Avenue of the Americas, New York, New York 10020-1095 or such other place as the BVI Court may require or allow on such date and at such time as the BVI Court shall determine for the purpose of voting to approve this Scheme.

11.2 An option to attend the Court Convened Meeting virtually will be provided.

11.3 The Court Convened Meeting shall be chaired by the Scheme Administrator as appointed by the BVI Court.

11.4 Without prejudice to Clause 11.6 every Scheme Creditor shall be entitled to vote on the matters in respect of this Scheme by attending and voting at the Court Convened Meeting in person.

11.5 Subject to Clause 11.7 every Scheme Creditor shall have one (1) vote for every US Dollar of its Admitted Liabilities.

11.6 Every Scheme Creditor entitled to vote shall have the right to appoint any person as its proxy to attend (either physically or virtually) a Court Convened Meeting and vote thereat in its place. The Voting and Proxy Form set out in Schedule 3 must be completed and returned to the Scheme Administrator as soon as possible and in any event at the latest by 10:00 am (New York Time) on the Business Day before the day of the Court Convened Meeting.

11.7 While the Trustee is not a Scheme Creditor for the purpose of the Scheme as Admitted Liabilities are limited to beneficial entitlements to payment, the Trustee shall be considered not to have any votes at the Court Convened Meeting.

11.8 Each Scheme Creditor (if attending in person or by a duly authorised representative) or its proxy will be required to register its attendance at the Court Convened Meeting prior to its commencement. Proof of personal identity will be required to attend the Court Convened Meeting (for example, a passport or driving licence with photo). If appropriate personal identification is not produced, then that person may not be permitted to attend and vote at the Scheme Meeting – whether or not such a person is permitted to attend at the Scheme Meeting shall be at the discretion of the Scheme Administrator.

11.9 Before the Scheme can become effective and binding on the Company and the Scheme Creditors, the BVI Court must sanction the Scheme. The sanction hearing at the BVI Court will take place if the requisite statutory majorities of the relevant Scheme Creditors have approved the Scheme at the Court Convened Meeting.

11.10 Scheme Creditors are entitled to appear at the sanction hearing at the BVI Court. The Scheme Administrator and the Company will notify the Scheme Creditors of the date of any sanction hearing. Scheme Creditors who wish to ask any questions in advance of the Court Convened Meeting or sanction hearing of the BVI Court are encouraged to contact the Scheme Administrator.

11.11 A Scheme Creditor on whose behalf a duly completed Voting and Proxy Form is submitted before the Court Convened Meeting may still attend the Court Convened Meeting in person. If a Scheme Creditor intends to attend the Court Convened Meeting, it may amend its voting instructions provided in a previously submitted Voting and Proxy Form by submitting a new validly completed Voting and Proxy Forms to the Chairman of the Court Convened Meeting before the start of the Court Convened Meeting.

11.12 Additionally Scheme Creditors will have the opportunity at the Court Convened Meeting to raise with the Scheme Administrator any questions, objections or issues they may have in relation to the Scheme.

12. NOTICE OF THE COURT CONVENED MEETING

12.1 At least 14 days' notice of the Court Convened Meeting shall be sent to the Scheme Creditors in the form set out at Schedule 7 or as otherwise directed by the BVI Court, together with an appropriate voting and proxy form. The notice shall be sent to each Scheme Creditor at its last known address (if any) and e-mail address (if any) or such other address and e-mail address as he may have given to the Company (or the Scheme Administrator) for the service of such notice upon him, or in the case of the Noteholders and for so long as the Existing 2024 Notes are held in global form on behalf of DTC or an Escrow Position, notice may be delivered to and via DTC. Every such notice shall be sent by Post and e-mail (if any) or via DTC.

12.2 The accidental omission to send any such notice to, or the non-receipt of a notice by, any Scheme Creditor entitled to receive the same shall not invalidate the proceedings in any meeting. The Scheme Administrator shall, insofar as they are able, cause to be published an advertisement of each Court Convened Meeting in such newspaper(s) and publication(s) as the BVI Court may direct. The Scheme Administrator may also cause to be published in such other place or places as they deem fit notices or advertisements of the Court Convened Meeting, such as in publications in New York, Brazil, the BVI and India.

13. TERMINATION OF THE APPOINTMENT OF SCHEME ADMINISTRATOR

13.1 The appointment of the Scheme Administrator and all powers and obligations associated therewith will automatically terminate upon the latest of either: (i) the accession by the Company to the New Notes; (ii) the provision by the Company of the New Security; (iii) the termination of the Existing Notes and the security and obligations granted thereunder; (iv) the accession by the Company to the Restructured Bradesco Credit Agreement and the Bradesco Reimbursement Agreement and the granting by the Company of the Bradesco Guarantee and Security ; or (v) the entry of an order by the US Bankruptcy Court as part of a Chapter 15 proceeding granting full force and effect to the Sanctioning Order and Scheme.

13.2 Following the termination of the appointment of the Scheme Administrator pursuant to Clause 13.1, the JPLs shall file for termination of their appointment as JPLs of the Company.

14. EXCLUSIONS AND ACKNOWLEDGEMENTS BY SCHEME CREDITORS

14.1 The Company is expressly authorised to takes the steps necessary to effect the actions set out in Clause 2 of the Scheme.

14.2 Each Scheme Creditor shall have no recourse against the Scheme Administrator or the Scheme Administrator' respective advisers for the termination of the Existing Notes or the release of any security or obligations thereunder for the purposes of this Scheme or have any other related claim whatsoever with regard to the Admitted Liabilities for any reason.

14.3 The Scheme Administrator and their respective advisers (legal, financial or otherwise) shall not incur any personal liability of any kind under, or by virtue of this Scheme, or in relation to any related matter or claim, whether in contract, tort or restitution or by reference to any other remedy or right, in any jurisdiction or forum, save for in respect of fraud committed by them, gross negligence or misconduct.

15. **VALIDITY OF ACTS OF AND RESPONSIBILITY OF THE SCHEME ADMINISTRATOR**

15.1 Subject to any applicable provision of the Act (or any other applicable BVI law or enactment):

(a) no Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done in good faith by the Scheme Administrator in pursuance of her functions or duties under this Scheme, or the exercise or non-exercise by the Scheme Administrator in good faith of any power or discretion conferred upon them for the purposes of this Scheme, and the Scheme Administrator shall not be liable for any loss whatsoever and howsoever arising out of any such act or omission, exercise or non-exercise of any power or discretion, unless, such loss is attributable to their or any of their own negligence, breach of duty or trust, fraud or dishonesty;

(b) any liability incurred, in respect of the matters referred to in Clause 15.1(a) above, by the Scheme Administrator as a result of their or any of their negligence, breach of duty or trust, fraud or dishonesty shall be limited to the value of the net assets of the Company at the Effective Date.

16. **INDEMNITIES AND VALIDATION**

16.1 The Company shall indemnify the Scheme Administrator against any liability by way of legal and other advisers' costs incurred by them in defending any proceedings in relation to the preparation, negotiation and implementation of this Scheme, whether civil or criminal, in which judgment is given in their favour, or which is discontinued before judgment is given, or in which they are acquitted, or in connection with any application in which relief is granted to them by the BVI Court from liability for negligence, default, breach of duty or breach of trust.

16.2 Notwithstanding a subsequent discovery that there was some defect in the procedure for calling or voting at any meetings, or the passing of resolutions, all acts done by the Scheme Administrator shall be valid as if every such procedure had been correctly adhered to, provided that, in the case of any meeting in respect of which such a defect is discovered, that meeting was quorate.

17. **MODIFICATION OF THIS SCHEME**

17.1 The BVI Court may order any modification of or addition to this Scheme or to any items or conditions which the BVI Court may think fit to approve or impose at any hearing of the BVI Court or give directions in respect of this Scheme, whether in accordance with Section 179A of the Act or otherwise.

17.2 It is acknowledged by the Scheme Creditors, the Company and the Scheme Administrator that there can be no modification to this Scheme after the BVI Court has sanctioned this Scheme without further order of the BVI Court.

18. EFFECT OF A LIQUIDATION EVENT

18.1 The occurrence of a Liquidation Event after the Effective Date during the implementation of the Scheme shall have no effect on the operation of this Scheme, which shall continue in full force and effect.

18.2 For the avoidance of doubt, notwithstanding the occurrence of any Liquidation Event, the continuation or exercise by the Scheme Administrator of their powers in accordance with this Scheme shall not be affected, save insofar as may be a necessary consequence by operation of law, notwithstanding any loss of agency in respect of the Company which may result from such Liquidation Event.

18.3 In the event of any conflict between the provisions of this Scheme, the provisions of the Act or the BVI Insolvency Act or the BVI Insolvency Rules or any analogous statutes or rules which may apply to the Company following a Liquidation Event, for Scheme purposes only, the provisions of this Scheme shall prevail.

18.4 Where a Liquidation Event has already occurred at, or occurs after, the implementation of the Scheme, the Scheme Creditors shall be entitled to prove in the liquidation or analogous proceedings for the full amount of their Admitted Liabilities.

19. **SCHEME CREDITORS TO CO-OPERATE**

19.1 The Scheme Creditors shall co-operate with and render in timely manner such assistance to the Scheme Administrator as the Scheme Administrator may reasonably require, including without limitation, the provision of information and documents in connection with the Admitted Liabilities and the operation and implementation of this Scheme.

20. **DISPUTE RESOLUTION PROCEDURE**

20.1 The Scheme Administrator shall refer any dispute to the BVI Court for directions and/or an order, setting out details of the matter to be resolved and enclosing evidence in support of it, including copies of such of

the Company's records as shall be relevant together with any supporting documents including those provided by the relevant Scheme Creditor(s).

20.2 Any order or direction of the BVI Court shall be conclusive and binding on the Company, the Scheme Administrator and the relevant Scheme Creditor(s).

21. **DISPATCH OF NOTICES AND OTHER WRITTEN COMMUNICATIONS AND DOCUMENTS**

21.1 Any notice or other written communication to be given under or in relation to the Scheme shall be given in writing and shall be deemed to have been duly given if it is delivered by hand, is posted on the Issuer's website or (so long as the Existing Notes are held in global form on behalf of DTC or an Escrow Position) delivered to DTC (in the case of the Noteholders), or is sent by email, fax or Post to the relevant person at its last known address (if any) and e-mail address (if any) or such other address and e-mail address as he may have given to the Company (or the Scheme Administrator), provided that in the case of notices and other written communications and documents to be sent to:

(a) the Scheme Administrator and/or the Company, such shall be sent to or c/o Olinda Star Ltd (In Provisional Liquidation) c/o EY Cayman Ltd., PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands;

(b) the Notes Registered Holder, shall be sent to to conversionsandwarrantsannouncements@dtcc.com; amendoza-elix@dtcc.com; skaylor@dtcc.com;

(c) the Notes Registered Holder Nominees, shall be sent to conversionsandwarrantsannouncements@dtcc.com; amendoza-elix@dtcc.com; skaylor@dtcc.com;

(d) Banco Bradesco, shall be sent to Banco Bradesco S.A., Grand Cayman Branch, 75 Fort Street, Appleby Tower, 5th floor Georgetown, KY1-1109, Grand Cayman, Cayman Islands; and

(e) the Trustee, such shall be sent to Wilmington Trust, National Association, 50 South Sixth Street, Suite 1290, Minneapolis, MN 55402, USA,

or in each case such other address(es) as shall be notified to the Scheme Creditors.

21.2 Notices and any other written communications or documents sent by Post to the Scheme Creditors pursuant to this Scheme shall be deemed, in the absence of evidence to the contrary, to have been received by the relevant Scheme Creditor on the tenth (10th) business day after dispatch and references to the receipt by a Scheme Creditor of any such notice, communication or document shall be construed accordingly. Notices or other communications sent by facsimile or email shall conclusively be deemed to have been received on the first business day following the day they were sent (subject to production of proof of transmission of all pages). References to a Scheme Creditor's address in this clause are to that Scheme Creditor's address as established in accordance with Clause 21.3, and references to "business days" in this clause are to a business day in the country in which such address is located. Notice periods laid down by this Scheme are to be calculated by reference to clear days from the date on which the notice concerned was sent by Post.

21.3 A sworn statement by the Scheme Administrator or a member of their staff that an envelope containing a notice was sent by Post shall be conclusive evidence that the notice was given.

22. EXCLUSIONS BY SCHEME CREDITORS

22.1 Each Scheme Creditor shall have no recourse to the Company's assets and debts other than in accordance with the terms of this Scheme or the New Notes.

22.2 The Scheme Administrator and their respective advisers (legal, financial or otherwise) shall not incur any personal liability of any kind under, or by virtue of the restructuring of the Company's debts, this Scheme, or in relation to any related matter or claim, whether in contract, tort or restitution or by reference to any other remedy or right, in any jurisdiction or forum, save for in respect of fraud committed by them.

23. **EXTENSION AND CALCULATION OF DEADLINES**

23.1 Save where expressly provided to the contrary, deadlines laid down by this Scheme shall be calculated by reference to calendar days and not Business Days, but in the event that such a deadline expires on a day which is not a Business Day, such deadline shall be deemed not to expire until close of business on the Business Day next following.

24. **GOVERNING LAW**

24.1 This Scheme shall be governed by, and construed in accordance with, the laws of the BVI and the BVI Court shall (save as provided in Clause 24.2) have exclusive jurisdiction to hear and determine any dispute or Proceedings arising out of the construction of this Scheme, or the implementation of this Scheme, and the Scheme Creditors shall be subject to the exclusive jurisdiction of the BVI Court for such purposes.

24.2 Notwithstanding the provisions of Clause 24.1, the Scheme Administrator retains the right to bring Proceedings, whether in the name of the Company or otherwise, in the courts of any other country having jurisdiction under its own laws to hear such Proceedings.

SCHEDULE 1

NEW SECURITY

1. Deposit Account Control Agreement
2. Olinda Star Mortgage
3. Olinda Star Assignment of Insurance Receivables
4. Priority Lien Olinda Star Share Charge Agreement
5. First Lien Olinda Star Share Charge Agreement
6. Second Lien Olinda Star Share Charge Agreement

SCHEDULE 2

SCHEME IMPLEMENTATION DOCUMENTS

1. The Priority Notes Indenture (and any accession instrument thereto to be executed by the Company)
2. The First Lien Notes Indenture (and any accession instrument thereto to be executed by the Company)
3. The Second Lien Notes Indenture (and any accession instrument thereto)
4. Restructured Bradesco Credit Agreement (and any accession instrument thereto)
4. Bradesco Reimbursement Agreement (and any accession instrument thereto)
6. Intercreditor Agreements (and any accession instrument thereto)
7. General Security Agreement
8. Bradesco Guarantee and Security agreement
9. New Security
10. Deeds of release for existing security granted by Olinda or over Olinda

SCHEDULE 3

VOTING AND PROXY FORM

OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

(the "Company")

I/We,_____

having our registered office/address at/of

_____

being a Scheme Creditor of the above named Company, hereby appoint:

the Chairman or:

_____

as my/our proxy to vote for me/us and on my/our behalf on any resolution proposed (including, but not limited to, the Resolution set out below) at the Court Convened Meeting to be held on 13 September 2022 at the offices of White & Case LLP at 1221 Avenue of the Americas, New York, New York 10020-1095, commencing at 13:00 (New York time), or at any adjournment thereof.

I/We hereby certificate that (i) I/We held the indebtedness of the Company as indicated on Annex A hereto, (ii) have not and will not prior to the Court Convened Meeting trade or otherwise dispose of such indebtedness, and (iii) the proxy is hereby authorized and directed to vote or abstain, as indicated below, with respect to the full amount of indebtedness indicated on Annex A. [***NOTE: PLEASE COMPLETE ANNEX A AND SUBMIT WITH THIS PROXY***]

Please indicate with an "X" in the space below how you wish your votes to be cast in respect of the Resolutions. If no specific direction as to voting is given, the proxy will vote or abstain from voting at his/her discretion.

RESOLUTION:	**FOR**	**AGAINST**	**ABSTAIN**
THAT the Scheme of Arrangement proposed by the Company, particulars of which are set out in the attached Scheme document, be approved subject to any modification, addition or condition which the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands may think fit to approve or impose which would not directly or indirectly have a material adverse effect on the rights of the Scheme Creditors.			

Dated: _____2022

_____ _____

Name of the Scheme Creditor Signature of the Scheme Creditor

NOTES:

1. A Scheme Creditor must insert his full name and registered address in type or block letters.

2. If it is desired to appoint some other person as proxy, the name of the proxy must be inserted in the space provided instead of the option provided which should be deleted.

3. The Proxy Form must:

   - in the case of an individual Scheme Creditor be signed by the Scheme Creditor or his attorney; and

   - in the case of a corporate Scheme Creditor be given either under its common seal or signed on its behalf by an attorney or by a duly authorised officer of the Scheme Creditor.

4. The Proxy Form (and any authority under which it is executed) must be faxed to +1 345 949 8529 or emailed to OlindaStarLtd@ey.com by no later than 13:00 (New York Time) on the Business Day prior to the day of the meeting.

Annex A

Holdings of Company Indebtedness as of May 16, 2022

Beneficial Owner	10.00% PIK / Cash Senior Secured Notes due 2024		10.00% PIK / Cash Senior Secured Third Lien Notes due 2024		10.00% PIK / Cash Senior Secured Fourth Lien Notes due 2024		Working Capital Facility Credit Agreement
	21038M AA1 / US21038MAA18	L1965H AA8 / USL1965HAA88	21038M AC7 / US21038MAC73	L1965H AC4 / USL1965HAC45	21038M AD5 / US21038MAD56	L1965H AD2 / USL1965HAD28	
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$

SCHEDULE 4

THE RJ PLAN AMENDMENT

PLANO DE RECUPERAÇÃO JUDICIAL CONJUNTO DAS SOCIEDADES INTEGRANTES DO GRUPO CONSTELLATION ADITADO E CONSOLIDADO EM 24 DE MARÇO DE 2022

SERVIÇOS DE PETRÓLEO CONSTELLATION S.A. – EM RECUPERAÇÃO JUDICIAL, sociedade por ações de capital fechado, inscrita no CNPJ/ME sob n. 30.521.090/0001-27, com sede na Av. Presidente Antônio Carlos, n. 51, 3º, 5º, 6º e 7º andares, Centro, Rio de Janeiro, Estado do Rio de Janeiro, CEP 20020-010 ("Constellation"); **SERVIÇOS DE PETRÓLEO CONSTELLATION PARTICIPAÇÕES S.A. – EM RECUPERAÇÃO JUDICIAL**, sociedade por ações de capital fechado, inscrita no CNPJ/ME sob o n. 12.045.924/0001-93, com sede na Av. Presidente Antônio Carlos, n. 51, sala 601, 6º andar, Centro, Rio de Janeiro, Estado do Rio de Janeiro, CEP 20020-010 ("Constellation Par"); **MANISA SERVIÇOS DE PETRÓLEO LTDA. – EM RECUPERAÇÃO JUDICIAL**, sociedade empresária limitada, inscrita no CNPJ/ME sob o n. 11.801.519/0001-95, com sede na Rua do Engenheiro, n. 736, quadra I, lotes 02, 03, 04, 05, 08, 09 e 10, Rio das Ostras, Estado do Rio de Janeiro, CEP 28.890-000 ("Manisa"); **TARSUS SERVIÇOS DE PETRÓLEO LTDA. – EM RECUPERAÇÃO JUDICIAL**, sociedade empresária limitada, inscrita no CNPJ/ME sob n. 11.801.960/0001-77, com sede na Rua do Engenheiro, n. 736, quadra I, lotes 02, 03, 04, 05, 08, 09 e 10, Rio das Ostras, Estado do Rio de Janeiro, CEP 28.890-000 ("Tarsus"); **ALPHA STAR EQUITIES LTD. (IN PROVISIONAL LIQUIDATION)**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Alpha Star"); **AMARALINA STAR LTD.**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Amaralina"); **ARAZI S.À.R.L.**, sociedade com sede em Avenue de la Gare, 8-10, CEP: 1616, Luxemburgo ("Arazi"); **BRAVA STAR LTD.**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Brava"); **CONSTELLATION OIL SERVICES HOLDING S.A.**, sociedade com sede na Avenue de la Gare, n. 8-10, Luxemburgo, registrada sob o n. B163424 ("Constellation Holding"); **CONSTELLATION OVERSEAS LTD. (IN PROVISIONAL LIQUIDATION)**, sociedade inscrita no CNPJ/ME sob n. 12.981.793/0001-56, com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Constellation Overseas"); **CONSTELLATION SERVICES LTD. (IN PROVISIONAL LIQUIDATION)**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas, inscrita no

CNPJ/ME sob n. 26.496.540/0001-00 ("Constellation Services"); **GOLD STAR EQUITIES LTD. (IN PROVISIONAL LIQUIDATION)**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Gold Star"); **LANCASTER PROJECTS CORP.**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Lancaster"); **LAGUNA STAR LTD.**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Laguna"); **LONE STAR OFFSHORE LTD. (IN PROVISIONAL LIQUIDATION)**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Lone Star"); **SNOVER INTERNATIONAL INC.**, sociedade com sede em Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, Ilhas Virgens Britânicas ("Snover"); e **STAR INTERNATIONAL DRILLING LIMITED (IN PROVISIONAL LIQUIDATION)**, sociedade inscrita no CNPJ/ME sob n. 05.722.506/0001-28, com sede no Clifton House, 75 Fort Street, George Town, P.O. Box 1350, Ilhas Cayman ("Star Drilling" e em conjunto com a Constellation, a Constellation Par, a Manisa, a Tarsus, a Alpha Star, a Amaralina, a Arazi, a Brava Star, a Constellation Holding, a Constellation Overseas, a Constellation Services, a Gold Star, a Lancaster, a Laguna, a Lone Star, a Snover, por si próprias ou por seus Joint Provisional Liquidators, conforme definido abaixo, "Grupo Constellation" ou "Recuperandas") disponibilizam, nos autos da Recuperação Judicial (conforme definido abaixo) em curso perante o Juízo da Recuperação Judicial (conforme definido abaixo), o presente Plano Consolidado (conforme definido abaixo), na forma do artigo 53 da LRF (conforme definida abaixo), cujos termos e condições são regulados a partir das cláusulas a seguir.

1 DEFINIÇÕES E REGRAS DE INTERPRETAÇÃO

1.1 DEFINIÇÕES. Os termos e expressões utilizados em letras maiúsculas, sempre que mencionados neste Plano Consolidado, terão os significados que lhes são atribuídos nesta Cláusula 1.1. Tais termos definidos serão utilizados, conforme apropriado, na sua forma singular ou plural, no gênero masculino ou feminino, sem que, com isso, percam o significado que lhes é atribuído.

1.1.1 "Acionistas": significam, em conjunto, os Acionistas Originais e os Novos Acionistas.

1.1.2 "Acionistas Classe A" ou "Acionistas Originais": são LuxCo e CIPEF, que, até a Data de Fechamento, são titulares da integralidade das ações emitidas da Constellation Holding e, após a Data de Fechamento, serão titulares de Ações Classe A da Constellation Holding, desde que observados os termos do Novo Acordo de Apoio ao Plano e atendidos os requisitos previstos nos *Trust Documents*, conforme definido no Novo Acordo de Apoio ao Plano e nos seus anexos, bem como no Term Sheet, permanecendo o Trust Cayman como titular das Ações Classe A da Constellation Holding referentes à LuxCo até que sejam preenchidos tais requisitos.

1.1.3 "Acionistas Classe B": são, em conjunto, os titulares de Ações Classe B-1 e os titulares de Ações Classe B-2 da Constellation Holding.

1.1.4 "Ações Classe A": significam as ações classe A que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações nos termos do Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.5 "Ações Classe B": são as Ações Classe B-1 e as Ações Classe B-2, consideradas em conjunto.

1.1.6 "Ações Classe B-1": significam as ações classe B-1 que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações nos termos do Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.7 "Ações Classe B-2": significam as ações classe B-2 que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações nos termos do Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.8 "Ações Classe C": são as Ações Classe C-1, as Ações Classe C-2, as Ações Classe C-3 e as Ações Classe C-4, consideradas em conjunto.

1.1.9 "Ações Classe C-1": significam as ações classe C-1 que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações no Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.10 "Ações Classe C-2": significam as ações classe C-2 que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações no Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.11 "Ações Classe C-3": significam as ações classe C-3 que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações nos termos do Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.12 "Ações Classe C-4": significam as ações classe C-4 que serão emitidas pela Constellation Holding, tendo os direitos concedidos a tais ações nos termos do Novo Acordo de Acionistas e nos demais documentos societários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.13 "Acordo de Apoio ao Plano Original": é o *Second Amended and Restated Plan Support Agreement and Lock-up Agreement* e seus respectivos anexos, firmado em 28 de junho de 2019 pelo Grupo Constellation, seus Acionistas Originais e determinados Credores, o qual constituiu o Anexo III do Plano Original.

1.1.14 "Acordos de Reembolso Bradesco": são (i) o Acordo de Reembolso (*Reimbursement Agreement*), datado de 25 de maio de 2016, conforme alterado, firmado entre o Bradesco, como emissor de carta de crédito e a Constellation Overseas, na qualidade de solicitante de carta de crédito; e (ii) o Acordo de

Reembolso (*Reimbursement Agreements*) datados de 7 de agosto de 2015, conforme alterado, firmado entre o Bradesco, como emissor de carta de crédito e a Constellation Overseas, na qualidade de solicitante de carta de crédito, os quais, por força do Acordo de Apoio ao Plano Original, foram alterados e substituídos pelos Aditamentos e Consolidações dos Acordos de Reembolso (*Amended and Restated Reimbursement Agreements*), datados de 18 de Dezembro de 2019, firmados entre o Bradesco, como emissor de cartas de crédito e a Constellation Overseas, na qualidade de solicitante de cartas de créditos, os quais serão novamente alterados e substituídos na forma do Novo Acordo de Apoio ao Plano e do Term Sheet.

1.1.15 "Administrador Judicial": é o escritório de advocacia Marcello Macêdo Advogados, representado pelo Dr. Marcello Macêdo, advogado inscrito na OAB/RJ sob o n. 65.541, conforme nomeação feita pelo Juízo da Recuperação, nos termos do Capítulo II, Seção III da LRF, ou quem venha a substituí-lo de tempos em tempos.

1.1.16 "Alienação de Ativos": são as operações de alienação de Ativos, sejam eles unidades produtivas isoladas ou não, através de venda direta, na forma do artigo 66 da LRF e/ou de acordo com as regras de processo competitivo contidas no artigo 60, *caput* e parágrafo único, no artigo 142 e demais disposições aplicáveis da LRF e no artigo 133, §1º do Código Tributário Nacional, nos termos da Cláusula 5 abaixo. As regras de processos competitivos, incluindo a descrição dos Ativos específicos que formarão as unidades produtivas isoladas, serão estabelecidas nos respectivos editais, sendo certo que não poderão ser alienados, tampouco poderão compor as unidades produtivas isoladas, quaisquer Ativos outorgados em garantia a quaisquer credores sem autorização prévia e por escrito do respectivo credor beneficiário da garantia em questão, nos termos do §1º do artigo 50 da LRF. Os bens e direitos que comporão as eventuais unidades produtivas isoladas serão alienados livres de quaisquer dívidas, contingências e obrigações do Grupo Constellation e de suas subsidiárias ou partes relacionadas, incluindo, sem limitação, aquelas de natureza tributária, ambiental e trabalhista.

1.1.17 "Alpha Star": tem o significado atribuído no preâmbulo.

1.1.18 "Amaralina": tem o significado atribuído no preâmbulo.

1.1.19 "Amaralina Star Term Loans": tem o significado atribuído no Contrato de Empréstimo Amaralina e Laguna.

1.1.20 "ANP": é a Agência Nacional do Petróleo, Gás Natural e Biocombustíveis.

1.1.21 "Aprovação do Plano Consolidado": é a aprovação do Plano Consolidado na Assembleia de Credores. Para os efeitos deste Plano Consolidado, considera-se que a Aprovação do Plano Consolidado ocorre na data da Assembleia de Credores que votar e aprovar o Plano Consolidado, ainda que o Plano Consolidado não seja aprovado por todas as Classes de Credores nesta ocasião, desde que posteriormente homologado judicialmente nos termos dos artigos 45 ou 58 da LRF, conforme aplicável.

1.1.22 "Arazi": tem o significado atribuído no preâmbulo.

1.1.23 "Assembleia de Credores": é qualquer Assembleia Geral de Credores realizada nos termos do Capítulo II, Seção IV, da LRF.

1.1.24 "Ativo" ou "Ativos": são todos os bens, móveis ou imóveis, e direitos que integram o ativo circulante e não circulante das Recuperandas, conforme definido na Lei das Sociedades por Ações, aí se incluindo, mas não se limitando, às unidades de perfuração de propriedade das Recuperandas e as participações acionárias em outras empresas.

1.1.25 "Bonds 2019": são as notas (títulos de crédito) sênior não garantidas, com vencimento em 2019, emitidas pela Constellation Holding, à taxa de 6.25%, na forma da escritura (*Indenture*) datada de 9 de novembro de 2012, conforme alterada de tempos em tempos, as quais, por força do Plano Original e do Acordo de Apoio ao Plano Original, foram substituídas pelos Bonds 2030.

1.1.26 "Bonds 2024": são as notas (títulos de crédito) sênior garantidas, com vencimento em 2024, emitidas pela Constellation Holding, na forma da escritura (*Indenture*) datada de 27 de julho de 2017, celebrada entre a Constellation Holding, como emissora, a Constellation Overseas, a Lone Star, a Gold Star, a Olinda, a Snover e a Star Drilling, como garantidoras, a Arazi como garantidora parcial, à taxa de

9.00% em dinheiro e 0.50% PIK, as quais, por força do Plano Original e do Acordo de Apoio ao Plano Original, foram substituídas pelos Novos Bonds 2024.

1.1.27 "Bonds 2030": significam as notas de crédito sênior (6.25% PIK/Cash Senior Notes), com vencimento em 2030, emitidas pela Constellation Holding, à taxa de 6,25%, na forma da escritura (*Indenture*) datada de 18 de dezembro de 2019, conforme alterada de tempos em tempos, que serão reestruturadas e substituídas na forma da Cláusula 8.3.1 abaixo.

1.1.28 "Bônus de Subscrição": são os *cashless warrants* a serem emitidos pela Constellation Holding, nos termos do Novo Acordo de Apoio ao Plano, do Term Sheet e dos seus respectivos anexos, previstos na Cláusula 8.2.1.3 abaixo.

1.1.29 "Bradesco": é o Banco Bradesco S.A., filial Grand Cayman.

1.1.30 "Brava Star": tem o significado atribuído no preâmbulo.

1.1.31 "Caixa Livre Ajustado": tem o significado estipulado no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice IX do Term Sheet.

1.1.32 "Caixa Livre": tem o significado estipulado no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice IX do Term Sheet.

1.1.33 "Carta de Crédito Perene": significa a nova carta de crédito que será emitida pelo Bradesco, nos termos do Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice I-B do Term Sheet, no valor total de US$ 30.200.000,00, em garantia e em benefício do agente do Contrato de Empréstimo ALB Garantido LC, em substituição às Cartas de Crédito Bradesco. A Carta de Crédito Perene terá validade inicial de 1 (um) ano contado da Data de Fechamento, mas será automaticamente renovada anualmente na data de aniversário. A validade da Carta de Crédito Perene será automaticamente estendida caso o vencimento do Contrato de Empréstimo ALB Garantido LC também o seja e será automaticamente liberada caso o Contrato de Empréstimo ALB Garantido LC seja integralmente pago. A Carta de Crédito Perene será exequível nas hipóteses previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice I-B do Term Sheet.

1.1.34 "Cartas de Crédito Bradesco": significam (i) a carta de crédito emitida pelo Bradesco por conta e ordem da Constellation Overseas em benefício da Laguna no valor de US$ 24.000.000,00 e (ii) a carta de crédito emitida pelo Bradesco por conta e ordem da Constellation Overseas em benefício da Brava Star no valor de US$ 6.200.000,00, renovadas por força do Plano Original e do Acordo de Apoio ao Plano Original, as quais garantem US$ 30.200.000,00 dos Créditos ALB Sujeitos ("Créditos ALB Garantido LC") e serão substituídas pela Carta de Crédito Perene, na Data de Fechamento, em benefício dos credores titulares do Créditos ALB Garantido LC, conforme previsto no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice I-B do Term Sheet.

1.1.35 "CIPEF": são os fundos de investimentos acionistas minoritários diretos ou indiretos das Recuperandas, cujo assessor de investimento é a Capital International Inc.

1.1.36 "Classes": Categorias nas quais se classificam os Créditos Concursais das Recuperandas de acordo com a natureza dos Créditos Concursais, conforme o previsto no artigo 41 da LRF.

1.1.37 "CNPJ/ME": é o Cadastro Nacional da Pessoa Jurídica do Ministério da Economia.

1.1.38 "Código Civil": a Lei n. 10.406, de 10 de janeiro de 2002, conforme alterada.

1.1.39 "Código Tributário Nacional": é a Lei n. 5.172, de 25 de outubro de 1966, conforme alterada.

1.1.40 "Constellation Holding": tem o significado atribuído no preâmbulo.

1.1.41 "Constellation Overseas": tem o significado atribuído no preâmbulo.

1.1.42 "Constellation Par": tem o significado atribuído no preâmbulo.

1.1.43 "Constellation Services": tem o significado atribuído no preâmbulo.

1.1.44 "Contas Reserva": são as contas reserva do serviço da dívida (*debt service reserve account*), que servem de garantia aos Créditos ALB.

1.1.45 "Contrato de Empréstimo ALB Garantido LC": significa o contrato de empréstimo a ser celebrado entre Laguna, Brava e os Credores ALB, em decorrência do Novo Acordo de Apoio ao Plano e seus anexos, bem como do Apêndice I-B do Term Sheet e deste Plano Consolidado, que intrumentalizará o Crédito ALB Garantido LC, garantido pela Carta de Crédito Perene.

1.1.46 "Contrato de Empréstimo Amaralina e Laguna Original": significa o Contrato de Empréstimo Sindicalizado (*Senior Syndicated Credit Facility Agreement*), celebrado em 27 de março de 2012, entre a Amaralina e a Laguna, como tomadoras, determinados bancos, como credores, e agentes administrativos e de garantias, conforme aditado de tempos em tempos, o qual, por força do Plano Original e do Acordo de Apoio ao Plano Original, foi alterado pelo Contrato de Empréstimo Amaralina e Laguna.

1.1.47 "Contrato de Empréstimo Amaralina e Laguna": significa o Segundo Aditamento e Consolidação ao Contrato de Empréstimo (*Second Amended and Restated Credit Agreement*), celebrado em 18 de dezembro de 2019, entre a Amaralina e a Laguna, como tomadoras, determinados bancos, como credores, e agentes administrativos e de garantias, que instrumentaliza os termos e condições de pagamento acordados no Plano Original e no Acordo de Apoio ao Plano Original para os Créditos A/L Sujeitos e para os Créditos A/L Não Sujeitos.

1.1.48 "Contrato de Empréstimo Bradesco": significa o Aditamento e Consolidação do Contrato de Empréstimo (*Amended And Restated Credit Agreement*) firmado em 18 de dezembro de 2019, entre Constellation Overseas, como tomadora, e o Bradesco, na condição de credor, que instrumentaliza os termos e condições de pagamento acordados no Plano Original e no Acordo de Apoio ao Plano Original para os Créditos Bradesco Sujeitos.

1.1.49 "Contrato de Empréstimo Bradesco Não Sujeito": significa o Contrato de Empréstimo (*Credit Agreement*) firmado em 18 de dezembro de 2019, entre Constellation Overseas, como tomadora, e o Bradesco, na condição de credor, que

instrumentaliza os termos e condições de pagamento do empréstimo no valor histórico de US$ 10.000.000,00, concedido, por força do Plano Original e do Acordo de Apoio Original, após a Data do Pedido.

1.1.50 "Contrato de Empréstimo Brava Original": significa o Contrato de Empréstimo Sindicalizado (*Senior Syndicate Credit Facility Agreement*) celebrado em 21 de novembro de 2014, pela Brava Star, como tomadora, determinados bancos, como credores, e agentes administrativos e de garantias, conforme aditado de tempos em tempos, o qual, por força do Plano Original e do Acordo de Apoio ao Plano Original, foi alterado pelo Contrato de Empréstimo Brava.

1.1.51 "Contrato de Empréstimo Brava": significa o Segundo Aditamento e Consolidação do Contrato de Empréstimo (*Second Amended and Restated Credit Agreement*) firmado em 18 de dezembro de 2019, entre Brava Star, como tomadora, determinados bancos, como credores, e agentes administrativos e de garantias, que instrumentaliza os termos e condições de pagamento acordados no Plano Original e no Acordo de Apoio ao Plano Original para os Créditos Brava Sujeitos e para os Créditos Brava Não Sujeitos.

1.1.52 "Contrato de Empréstimo Reestruturado ALB": significa o contrato de empréstimo a ser celebrado entre Amaralina, Laguna e Brava, como tomadoras, determinados bancos, como credores, e agentes administrativos e de garantias, em substituição ao Contrato de Empréstimo Brava e ao Contrato de Empréstimo Amaralina e Laguna, que instrumentalizará os termos e condições de pagamento acordados neste Plano Consolidado, no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice I-A do Term Sheet, para os Créditos ALB, à exceção dos Créditos ALB Garantido LC.

1.1.53 "Contratos de Empréstimo Bradesco Originais": são os Contratos de Empréstimo (*Loan Facility Agreements*) celebrados em 09 de maio de 2014 e em 30 de janeiro de 2015, pela Constellation Overseas, como tomadora, e o Bradesco na condição de credor, conforme aditados de tempos em tempos, os quais, por força do Plano Original e do Acordo de Apoio ao Plano Original, foram alterados pelo Contrato de Empréstimo Bradesco.

1.1.54 "Créditos": são os créditos e obrigações (inclusive obrigações de fazer) detidos pelos Credores contra as Recuperandas, sejam vencidos ou vincendos, materializados ou contingentes, líquidos ou ilíquidos, objeto ou não de disputa judicial, procedimento arbitral ou procedimento administrativo, iniciados ou não, e sejam ou não sujeitos aos efeitos deste Plano Consolidado.

1.1.55 "Créditos A/L": são os Créditos A/L Sujeitos e Créditos A/L não sujeitos, considerados em conjunto.

1.1.56 "Créditos A/L Não Sujeitos": significa o empréstimo no valor histórico de US$ 27.202.963,71, com vencimento em 09 de novembro de 2023, concedido por determinados bancos a Amaralina e Laguna, por força do Plano Original e do Acordo de Apoio Original, após a Data do Pedido, o qual não se sujeita aos efeitos desta Recuperação Judicial e goza de todos os benefícios estabelecidos pelo artigo 67, pela Seção IV-A e pelo artigo 84, I-B, todos da LRF, e que será reestruturado de forma voluntária pelos Credores A/L, na forma do Apêndice I-A do Term Sheet e da Cláusula 8.2.1 abaixo.

1.1.57 "Créditos A/L Sujeitos": são os créditos decorrentes do Contrato de Empréstimo Amaralina e Laguna Original, conforme reestruturados pelo Plano Original e pelo Acordo de Apoio ao Plano Original, os quais serão novamente reestruturados consoante as condições previstas no Apêndice I-A do Term Sheet e da Cláusula 8.2.1 abaixo.

1.1.58 "Créditos ALB Garantido LC": tem o significado conferido na Cláusula 1.1.34 acima.

1.1.59 "Créditos ALB": são os Créditos A/L Sujeitos, Créditos A/L Não Sujeitos, os Créditos Brava Sujeitos e os Créditos Brava Não Sujeitos, considerados em conjunto. Os Créditos ALB abragem o Crédito ALB Garantido LC.

1.1.60 "Créditos ALB Reestruturados": são os créditos decorrentes do Contrato de Empréstimo Reestruturado ALB.

1.1.61 "Créditos ALB Sujeitos": são os Créditos A/L Sujeitos e os Créditos Brava Sujeitos, considerados em conjunto.

1.1.62 "Créditos ALB Não Sujeitos": são os Créditos A/L Não Sujeitos e os Créditos Brava Não Sujeitos, considerados em conjunto.

1.1.63 "Créditos Bonds 2030": são os Créditos decorrentes dos Bonds 2030.

1.1.64 "Créditos Bradesco Não Sujeitos": significa (i) os créditos decorrentes do Contrato de Empréstimo Bradesco Não Sujeito, o qual não se sujeita aos efeitos desta Recuperação Judicial e goza de todos os benefícios estabelecidos pelo artigo 67, pela Seção IV-A e pelo artigo 84, I-B, todos da LRF, e que será reestruturado de forma voluntária pelo Bradesco, na forma do Apêndice III do Term Sheet e da Cláusula 8.2.4 abaixo; (ii) eventuais créditos decorrentes da Carta de Crédito Perene; bem como (iii) eventuais créditos decorrentes dos Acordos de Reembolso Bradesco e das Cartas de Crédito Bradesco, eis que não foram executados em desfavor das Recuperandas antes da Data do Pedido.

1.1.65 "Créditos Bradesco Reestruturados": são os créditos Bradesco Sujeitos e os créditos decorrentes do Contrato de Empréstimo Bradesco Não Sujeito.

1.1.66 "Créditos Bradesco Sujeitos": são os créditos decorrentes do Contrato de Empréstimo Bradesco, conforme reestruturados pelo Plano Original e pelo Acordo de Apoio ao Plano Original, os quais serão novamente reestruturados consoante as condições previstas no Apêndice III do Term Sheet e da Cláusula 8.2.4 abaixo.

1.1.67 "Créditos Brava Não Sujeitos": significa o empréstimo no valor histórico de US$ 11.871.571,70, com vencimento em 09 de novembro de 2023, concedido por determinados bancos a Brava, por força do Plano Original e do Acordo de Apoio Original, após a Data do Pedido, o qual não se sujeita aos efeitos desta Recuperação Judicial e goza de todos os benefícios estabelecidos pelo artigo 67, pela Seção IV-A e pelo artigo 84, I-B, todos da LRF, e que será reestruturado de forma voluntária pelos Credores A/L, na forma do Apêndice I-A do Term Sheet e da Cláusula 8.2.1 abaixo.

1.1.68 "Créditos Brava Sujeitos": são os créditos decorrentes do Contrato de Empréstimo Brava Original, conforme reestruturados pelo Plano Original e pelo Acordo de Apoio ao Plano Original, os quais serão novamente reestruturados consoante as condições previstas no Apêndice I-A do Term Sheet e na Cláusula 8.2.1 abaixo.

1.1.69 "Créditos Brava": São os Créditos Brava Sujeitos e Créditos Brava Não Sujeitos, considerados em conjunto.

1.1.70 "Créditos com Garantia Real": são os Créditos assegurados por direitos reais de garantia, até o limite do valor do respectivo bem, nos termos do artigo 41, inciso II e artigo 83, inciso II da LRF, os quais serão reestruturados nos termos da Cláusula 8.2 abaixo.

1.1.71 "Créditos Concursais": são os Créditos detidos pelos Credores contra as Recuperandas, ou que estas possam vir a responder por qualquer tipo de coobrigação, sejam vencidos ou vincendos, materializados ou contingentes, líquidos ou ilíquidos, objeto ou não de disputa judicial ou administrativa ou procedimento arbitral, iniciados ou não, derivados de quaisquer relações jurídicas e contratos existentes antes da Data do Pedido ou cujo fato gerador seja anterior à Data do Pedido, ou que decorram de contratos, instrumentos ou obrigações existentes na Data do Pedido, sujeitos aos regime de recuperação judicial e que, em razão disso, se submetem a este Plano Consolidado, nos termos da LRF.

1.1.72 "Créditos de Fornecedores": são os Créditos Quirografários e Créditos ME/EPP titularizados por Credores Fornecedores.

1.1.73 "Créditos Ilíquidos": são os Créditos Concursais detidos contra as Recuperandas que não eram líquidos na Data do Pedido e/ou que ainda não se tornaram líquidos, incluindo, mas não se limitando, serviços já prestados e pendentes de medição, cuja existência e/ou valores sejam ou venham a ser questionados pelas Recuperandas, os quais serão reestruturados nos termos da Cláusula 8.7 abaixo. Não são Créditos Ilíquidos os Créditos Concursais reconhecidos na Lista de Credores.

1.1.74 "Créditos ME/EPP": são os Créditos detidos pelos Credores Concursais constituídos sob a forma de microempresas e empresas de pequeno porte, conforme definidas pela Lei Complementar n. 123, de 14 de dezembro de 2006, pelo artigo 41, inciso IV e pelo artigo 83, inciso IV, d, da LRF, os quais serão reestruturados nos termos da Cláusula 8.4 abaixo.

1.1.75 "Créditos Não Sujeitos à Recuperação Judicial": significam os créditos detidos contra as Recuperandas: (i) cujo fato gerador seja posterior à Data do Pedido; ou (ii) que se enquadrem no artigo 49, parágrafos 3º e 4º da LRF, ou em outras normas da legislação brasileira que os excluam expressamente dos efeitos desta Recuperação Judicial. Por meio do presente Plano Consolidado, as Recuperandas e os Credores Apoiadores declaram, garantem e reconhecem, para todos os fins e efeitos de direito, que os Créditos A/L Não Sujeitos, os Créditos Brava Não Sujeitos, os Créditos Bradesco Não Sujeitos e os Créditos Novos Bonds Participantes Não Sujeitos são Créditos Não Sujeitos à Recuperação Judicial. Ainda, as Recuperandas e os Credores Apoiadores reconhecem que o Novo Financiamento DIP Prioritário, quando contratado, também não se sujeitará aos efeitos desta Recuperação Judicial e gozará de todos os benefícios estabelecidos pelo artigo 67, pela Seção IV-A e pelo artigo 84, I-B, todos da LRF.

1.1.76 "Créditos Novos Bonds 2024 Participantes": são os créditos instrumentalizados por meio dos Novos Bonds 2024 Participantes.

1.1.77 "Créditos Novos Bonds 2024 Participantes Não Sujeitos": são os créditos instrumentalizados por meio dos Novos Bonds 2024 Participantes correspondentes aos recursos disponibilizados pelos Credores dos Novos Bonds 2024 Participantes, no valor histórico de US$ 27.000.000,00, após a Data do Pedido, nos termos do Plano Original e do Acordo de Apoio ao Plano Original, o qual não se sujeita aos efeitos desta Recuperação Judicial e goza de todos os benefícios estabelecidos pelo artigo 67, pela Seção IV-A e pelo artigo 84, I-B, todos da LRF, e que será reestruturado de forma voluntária pelos Credores dos Novos Bonds 2024 Participantes, na forma do Apêndice II do Term Sheet e da Cláusula 8.2.2 abaixo.

1.1.78 "Créditos Parceiros": são os Créditos titularizados por Credores Parceiros.

1.1.79 "Créditos Quirografários": são os Créditos Concursais previstos no artigo 41, inciso III e no artigo 83, inciso VI, da LRF, os quais serão reestruturados nos termos da Cláusula 8.3 abaixo.

1.1.80 "Créditos Retardatários": são os Créditos habilitados nos termos do artigo 10 da LRF.

1.1.81 "Créditos Trabalhistas": são os Créditos e direitos derivados da legislação do trabalho ou decorrentes de acidente de trabalho, nos termos do artigo 41, inciso I e do artigo 83, inciso I, da LRF e os créditos e direitos consistentes em honorários advocatícios, os quais serão reestruturados nos termos da Cláusula 8.1 abaixo.

1.1.82 "Credores": são as pessoas físicas ou jurídicas titulares de Créditos contra as Recuperandas, estejam ou não relacionadas na Lista de Credores.

1.1.83 "Credores A/L": são os titulares de Créditos A/L Sujeitos e de Créditos A/L Não Sujeitos.

1.1.84 "Credores ALB": são, em conjunto, os Credores A/L e os Credores Brava.

1.1.85 "Credores Apoiadores": são os Credores das Recuperandas que firmaram ou aderiram ao Novo Acordo de Apoio ao Plano e ao Term Sheet.

1.1.86 "Credores Bonds 2030": são os titulares de Créditos Bonds 2030.

1.1.87 "Credores Brava": são os titulares de Créditos Brava Sujeitos e de Créditos Brava Não Sujeitos.

1.1.88 "Credores Cessionários": são os Credores que se tornarem titulares de Créditos Concursais em razão da celebração de contratos de cessão de crédito em que figure como cedente um Credor Concursal e o objeto da cessão seja um Crédito Concursal, observado o disposto na Cláusula 11.11 abaixo e, no que couber, o Novo Acordo de Apoio ao Plano.

1.1.89 "Credores com Garantia Real": são os Credores titulares de Créditos com Garantia Real.

1.1.90 "Credores Concursais": são os Credores titulares de Créditos Concursais.

1.1.91 "Credores dos Novos Bonds 2024": são os titulares dos Novos Bonds 2024.

1.1.92 "Credores dos Novos Bonds 2024 Participantes": são os titulares dos Novos Bonds 2024 Participantes.

1.1.93 "Credores Fornecedores": são os titulares de Créditos Quirografários e Créditos ME/EPP que derivam de relações de fornecimento de bens e serviços necessários ao desenvolvimento das atividades do Grupo Constellation e/ou de sua reestruturação.

1.1.94 "Credores Ilíquidos": São os Credores titulares de Créditos Ilíquidos.

1.1.95 "Credores ME/EPP": São os Credores titulares de Créditos ME/EPP.

1.1.96 "Credores Parceiros": são considerados (i) os Credores Apoiadores; (ii) os Credores Fornecedores que mantiveram o fornecimento de bens e/ou serviços às Recuperandas, sem alteração injustificada dos termos e condições praticados até a Data do Pedido; que uma vez solicitados por qualquer das Recuperandas, não se recusarem a fornecer bens e/ou serviços nos termos e condições praticados até a Data do Pedido; que não possuam qualquer tipo de litígio em curso contra qualquer das Recuperandas e que não tenham adotado procedimentos de cobrança, protestos ou quaisquer outros atos relacionados aos Créditos Concursais que impliquem na restrição do crédito do Grupo Constellation; (iii) os Credores contratantes das Recuperandas que mantiverem a relação contratual e comercial corrente com as Recuperandas ou que estabeleçam novos contratos com as Recuperandas a contar da Data do Pedido; seus empregados e ex-empregados detentores de Créditos Quirografários decorrentes de despesas incorridas no exercício das atividades profissionais.

1.1.97 "Credores Quirografários": são os Credores titulares de Créditos Quirografários.

1.1.98 "Credores Retardatários": são os Credores titulares de Créditos Concursais que, no todo ou em parte, possam ser considerados Créditos Retardatários.

1.1.99 "Credores Sub-rogatários": são os Credores que se sub-rogarem na posição de Credor Concursal em razão de terem efetuado pagamento,

espontaneamente ou não, de qualquer Crédito Concursal em relação ao qual sejam considerados coobrigados, por contrato, previsão legal ou determinação judicial.

1.1.100 "Credores Trabalhistas Pessoas Físicas detentores de Créditos Sub-Judice": são os Credores Trabalhistas pessoas físicas que ajuizaram ações judiciais, administrativas e/ou arbitrais em face do Grupo Constellation.

1.1.101 "Credores Trabalhistas": são os Credores titulares de Créditos Trabalhistas.

1.1.102 "Data de Fechamento": é a data correspondente à implementação e fechamento da reestruturação objeto deste Plano Consolidado, que deverá acontecer até 31 de maio de 2022, observado o disposto no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

1.1.103 "Data de Homologação": é a data em que ocorrer a publicação na Imprensa Oficial da decisão de Homologação Judicial do Plano Consolidado proferida pelo Juízo da Recuperação.

1.1.104 "Data do Pedido": é a data em que o pedido de Recuperação Judicial foi ajuizado pelas Recuperandas, i.e., 06.12.2018.

1.1.105 "Dia Útil": é qualquer dia que não seja sábado, domingo, feriado nacional, feriado municipal ou que, por qualquer motivo, não haja expediente forense e/ou bancário nas Cidades de São Paulo, Rio de Janeiro, Nova Iorque, Londres, Luxemburgo, Cidade do Panamá e Mumbai.

1.1.106 "Direitos de Valor Contingente": são os direitos emitidos pela Constellation Holding conferidos aos Acionistas Originais e aos Credores do Novo Financimento DIP Prioritário, cujo significado é especificado no Apêndice VIII do Term Sheet.

1.1.107 "Evento de Liquidez Qualificado": significa um Evento de Liquidez aprovado nos termos do Novo Acordo de Apoio ao Plano, bem como do Apêndice VIII do Term Sheet.

1.1.108 "Evento de Liquidez": observado o disposto no Apêndice VIII do Term Sheet, significa com relação à Constellation Holding, qualquer transação ou série de transações em que a Constellation Holding seja parte, relacionadas a: (i) qualquer fusão ou incorporação (seja a Constellation Holding ou não a entidade remanescente), que não seja uma fusão ou incorporação da Constellation Holding com uma ou mais de suas subsidiárias detidas 100% direta ou indiretamente; (ii) qualquer compra de ações, combinação de negócios ou oferta de compra ou oferta de troca, ou qualquer outra transação, por meio da qual qualquer "pessoa" ou "grupo" possa adquirir ou de qualquer outra forma deter a titularidade de mais de 50% (cinquenta por cento) das ações com direito a voto da Constellation Holding; ou (iii) qualquer venda, transferência, arrendamento, troca, oneração ou outra alienação de ativos representando todos ou substancialmente todos os ativos da Constellation Holding (incluindo suas subsidiárias, como um todo).

1.1.109 "Gold Star": tem o significado atribuído no preâmbulo.

1.1.110 "Grupo *Ad Hoc*": significa determinado grupo *ad hoc* de Credores dos Novos Bonds 2024 que aderiram ao Novo Acordo de Apoio ao Plano e Term Sheet.

1.1.111 "Grupo Constellation": tem o significado atribuído no preâmbulo.

1.1.112 "Homologação Judicial do Plano Consolidado": é a decisão judicial proferida pelo Juízo da Recuperação que homologa o Plano Consolidado, nos termos da LRF. Para os efeitos deste Plano Consolidado, considera-se que a Homologação Judicial do Plano Consolidado ocorre na Data de Homologação.

1.1.113 "Joint Provisional Liquidators": (i) Eleanor Fisher e Paul Pretlove, nomeados conjuntamente pela Suprema Corte do Caribe Oriental no Superior Tribunal de Justiça das Ilhas Virgens Britânicas, em 19 de dezembro de 2018, para atuar, juntos ou separadamente, como liquidantes provisórios da: Constellation Overseas, Alpha Star, Gold Star, Lone Star, Snover e Olinda Star, indicados para todas as sociedades até 18 de dezembro de 2019, exceto pela Olinda Star, sendo esta até 7 de abril de 2020; (ii) Eleanor Fisher e Roy Bailey, nomeados conjuntamente pela Suprema Corte do Caribe Oriental no Superior Tribunal de Justiça das Ilhas Virgens Britânicas, em 8 de abril de 2021, para atuar, juntos ou separadamente, como

liquidantes provisórios da: Constellation Overseas, Constellation Services, Alpha Star, Gold Star, Lone Star, Hopelake Services Ltd. e Olinda Star; e, (iii) Eleanor Fisher e Roy Bailey, indicados pelo Grande Tribunal das Ilhas Cayman em 13 de abril de 2021 para atuar, juntos ou separadamente, como liquidantes provisórios da Star Drilling.

1.1.114 "Juízo da Recuperação": é o Juízo da 1ª Vara Empresarial da Comarca da Capital do Estado do Rio de Janeiro, para o qual foi distribuído o pedido de Recuperação Judicial do Grupo Constellation.

1.1.115 "Laguna": tem o significado atribuído no preâmbulo.

1.1.116 "*Laguna Star Term Loans*": tem o significado atribuído no Contrato de Empréstimo Amaralina e Laguna.

1.1.117 "Lancaster": tem o significado atribuído no preâmbulo.

1.1.118 "Laudos": são (i) o laudo de viabilidade econômico-financeira; e (ii) o laudo de avaliação de bens e ativos das Recuperandas, apresentados nos termos e para os fins do artigo 53, incisos II e III, da LRF, que integraram os Anexos I e II do Plano Original.

1.1.119 "Lei das Sociedades por Ações": é a Lei Federal n. 6.404, de 15 de dezembro de 1976, conforme alterada.

1.1.120 "Lista de Credores": é a relação consolidada de credores, a ser apresentada na mesma data de apresentação do Plano Consolidado, nos autos do processo de Recuperação Judicial, e utilizada para votação deste Plano Consolidado em Assembleia de Credores[1], refletindo (i) fatos consumados tais como os pagamentos realizados e as garantias concedidas pelas Recuperandas em razão do Plano Original; (ii) juros, encargos e atualizações monetárias aplicáveis em razão e nos termos do Plano Original até 07 de abril de 2021, quando as obrigações do Plano Original foram suspensas pelo Juízo da Recuperação; (iii) cessões de créditos informadas às Recuperandas e/ou ao i. Administrador Judicial; (iv) o resultado de

[1] Observadas todas as decisões judiciais vigentes, em especial a decisão liminar proferida no Agravo de Instrumento n. 0067320-33.2021.8.19.0000.

habilitações e divergências de crédito já transitadas em julgado, e/ou (v) créditos reconhecidos pelas Recuperandas como devidos e anteriores à Data do Pedido. A Lista de Credores não contempla os Créditos Não Sujeitos à Recuperação Judicial.

1.1.121 "Lone Star": tem o significado atribuído no preâmbulo.

1.1.122 "LRF": é a Lei Federal n. 11.101, de 09 de fevereiro de 2005, conforme alterada, que regula a recuperação judicial, a extrajudicial e a falência do empresário e da sociedade empresária.

1.1.123 "LuxCo": é a LUX Oil & Gas International S.a.r.L., atual acionista majoritária da Constellation Holding, que é uma entidade 100% detida pelo Sun Star Fundo de Investimento em Participações Multiestratégia Investimento no Exterior, um Fundo de Investimento em Participações.

1.1.124 "Manisa": tem o significado atribuído no preâmbulo.

1.1.125 "Marcos Subsequentes": são os marcos subsequentes (*milestones*) descritos na Cláusula 11.01 (n) do Novo Acordo de Apoio ao Plano.

1.1.126 "Novo Acordo de Acionistas": significa o novo acordo de acionistas da Constellation Holding, a ser firmado na forma do Novo Acordo de Apoio ao Plano, do Term Sheet e seus respectivos anexos, na Data de Fechamento.

1.1.127 "Novo Acordo de Apoio ao Plano": é o *Plan Support Agreement and Lock-up Agreement* e seus respectivos anexos, firmado em 24 de março de 2022, por e entre, *inter alia*, as Recuperandas e os Credores Apoiadores, que constitui o Anexo I deste Plano Consolidado.

1.1.128 "Novo Financiamento DIP Prioritário": tem o significado atribuído na Cláusula 6.2.3 abaixo.

1.1.129 "Novos Acionistas": significam, em conjunto, os titulares de Ações Classe A, Ações Classe B e Ações Classe C.

1.1.130 "Novos Bonds 2024": são os Novos Bonds 2024 Participantes e os Novos Bonds 2024 Não Participantes.

1.1.131 "Novos Bonds 2024 Não Participantes": significam as notas (títulos de crédito) sênior garantidas, com vencimento em 2024, emitidas pela Constellation Holding, na forma da escritura (*Indenture*) datada de 18 de dezembro de 2019, celebrada entre a Constellation Holding, como emissora e outras entidades do Grupo Constellation como garantidoras, à taxa de 10% PIK, sem amortização parcial, que serão reestruturadas e substituídas na forma da Cláusula 8.2.3 abaixo, do Novo Acordo de Apoio ao Plano, bem como do Apêndice IV do Term Sheet.

1.1.132 "Novos Bonds 2024 Participantes": significam as notas (títulos de crédito) sênior garantidas, com vencimento em 2024, emitidas pela Constellation Holding, na forma da escritura (*Indenture*) datada de 18 de dezembro de 2019, celebrada entre a Constellation Holding, como emissora e outras entidades do Grupo Constellation como garantidoras, a taxas variáveis e com previsão de amortizações parciais, que serão reestruturadas e substituídas na forma da Cláusula 8.2.2 abaixo, do Novo Acordo de Apoio ao Plano, bem como do Apêndice II do Term Sheet.

1.1.133 "Novos Instrumentos de Reestruturação": significam os instrumentos que serão assinados e se tornarão eficazes na Data de Fechamento, desde que verificadas as condições precedentes previstas no Novo Acordo de Apoio ao Plano e no Term Sheet.

1.1.134 "Novos Recursos CAPEX": tem o significado atribuído na Cláusula 6.1 abaixo.

1.1.135 "Olinda Star": significa a Olinda Star Ltd.

1.1.136 "Partes Isentas": são (i) os Acionistas Originais, (ii) os Joint Provisional Liquidators, (iii) os Credores Apoiadores, (iv) os Credores do Novo Financiamento DIP Prioritário, (v) as Recuperandas, e com relação a todos os acima citados, suas controladas, subsidiárias e outras sociedades pertencentes ao mesmo grupo, e seus respectivos diretores, conselheiros, funcionários, advogados, assessores, agentes, mandatários, representantes, incluindo seus antecessores e sucessores, considerando ainda que as Partes Isentas não incluem nenhum parceiro ou sócio em joint venture, ex-sócio de qualquer entidade Recuperanda ou qualquer outra

entidade que não integre o Grupo Constellation e seja devedora de entidade do Grupo Constellation.

1.1.137 "Petrobras": é a Petróleo Brasileiro S.A., sociedade por ações de economia mista federal criada pela Lei n. 2.004, de 03 de outubro de 1953, e regida pela Lei n. 9.478, de 06 de agosto de 1997, inscrita no CNPJ/ME sob o n. 33.000.167/0001-01, com sede na Av. República do Chile n. 65, sala 502, Centro, Rio de Janeiro/RJ, CEP 20.031-912.

1.1.138 "PIK": significa capitalização de juros sem pagamento em dinheiro nos termos do contrato específico.

1.1.139 "Plano Consolidado": é este Plano de Recuperação Judicial Conjunto do Grupo Constellation Aditado e Consolidado e todos seus anexos, conforme aditado, modificado ou alterado de tempos em tempos.

1.1.140 "Plano Original": é o Plano de Recuperação Judicial Conjunto do Grupo Constellation homologado pelo Juízo da Recuperação em 01 de julho de 2019, conforme alterado pela 16ª Câmara Cível do Tribunal de Justiça do Rio de Janeiro.

1.1.141 "Processo Auxiliar no Exterior": significa cada um dos procedimentos auxiliares ajuizados perante a jurisdição norte-americana, com base no capítulo 15 do U.S Bankruptcy Code (Chapter 15), bem como cada um dos procedimentos auxiliares ajuizados nas Ilhas Virgens Britânicas, chamado "*soft touch provisional liquidation*" e nas Ilhas Cayman, denominados "*light touch provisional liquidation*".

1.1.142 "Recuperação Judicial": é o processo de recuperação judicial das Recuperandas autuado sob o n. 0288463-96.2018.8.19.0001.

1.1.143 "Recuperandas": tem o significado atribuído no preâmbulo.

1.1.144 "Recursos Líquidos do Evento de Liquidez": tem o significado atribuído na Cláusula 7.1 abaixo, observado o disposto no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice VIII do Term Sheet.

1.1.145 "Saldo de Caixa Excedente": tem o significado estipulado no Novo Acordo de Apoio ao Plano Consolidado e seus anexos, bem como no Apêndice IX do Term Sheet.

1.1.146 "Snover": tem o significado atribuído no preâmbulo.

1.1.147 "SOFR": é a *Secured Overnight Financing Rate*, uma taxa referencial de juros overnight interbancária garantida para empréstimos e operações com derivativos denominados em dólares e estabelecida como alternativa à LIBOR, a qual é publicada pelo Federal Reserve Bank de Nova Iorque (ou seu sucessor) em seu website na internet.

1.1.148 "Star Drilling": tem o significado atribuído no preâmbulo.

1.1.149 "Tarsus": tem o significado atribuído no preâmbulo.

1.1.150 "Term Sheet": é o Anexo II deste Plano Consolidado.

1.1.151 "Termo de Compromisso Financeiro": significa o contrato por meio do qual o Grupo *Ad Hoc* se compromete, desde que atendida as condições nele previstas, a prover o Novo Financimento DIP, celebrado nos termos do Apêndice B do Term Sheet.

1.1.152 "Trust Cayman": tem o significado conferido no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

1.1.153 "Valor da Conversão da Dívida": significa o menor valor entre (i) o saldo em aberto da dívida conversível e (ii) 87% dos Recursos Líquidos do Evento de Liquidez, conforme previsto no Novo Acordo de Apoio ao Plano, bem como no Term Sheet.

1.2 INDIVISIBILIDADE DO NOVO ACORDO DE APOIO AO PLANO. O Novo Acordo de Apoio ao Plano, o Term Sheet, bem como os seus respectivos anexos, são partes integrantes, inseparáveis e indivisíveis deste Plano Consolidado em sua integralidade; sendo certo que na hipótese de conflito de qualquer natureza entre as disposições deste Plano Consolidado e do Novo Acordo de Apoio ao Plano e do Term Sheet, prevelecerá (i) o disposto no Novo Acordo de Apoio ao Plano e no Term

Sheet, no que diz respeito aos Credores Anuentes, observado o disposto na Cláusula 14.16(c) do Novo Acordo de Apoio ao Plano, e (ii) o disposto no Plano Consolidado, no que diz respeito aos demais Credores Concursais.

1.2.1 A Aprovação do Plano Consolidado e a Homologação Judicial do Plano Consolidado implicam a concomitante aprovação e homologação judicial do Novo Acordo de Apoio ao Plano, do Term Sheet, bem como dos seus respectivos anexos, , observado o disposto na Cláusula 14.16(c) do Novo Acordo de Apoio ao Plano.

1.3 **TRADUÇÃO**. Em caso de divergência entre a versão original em português do Plano Consolidado e a versão traduzida para o Inglês do Plano Consolidado que exista ou seja disponibilizada pelo Grupo Constellation ou seus assessores, a versão em Português deverá prevalecer. Em caso de divergência entre a versão original em inglês do Novo Acordo de Apoio ao Plano, do Term Sheet e seus respectivos anexos e respectivos Apêndices e a versão traduzida para o português do Novo Acordo de Apoio ao Plano, do Term Sheet e seus respectivos anexos e respectivos Apêndices que exista ou seja disponibilizada pelo Grupo Constellation ou seus assessores, a versão em inglês deverá prevalecer.

1.3.1 Os *Joint Provisional Liquidators* se basearam em uma versão do Plano Consolidado traduzida para o inglês, reservando todos os seus direitos enquanto pendente a tradução juramentada do Plano Consolidado para o inglês.

1.4 **CLÁUSULAS E ANEXOS**. Exceto se especificado de forma diversa, todas as Cláusulas e anexos mencionados neste Plano Consolidado referem-se a Cláusulas e anexos deste Plano Consolidado, assim como as referências a Cláusulas ou itens deste Plano Consolidado referem-se também às respectivas subcláusulas e subitens. Todos os anexos a este Plano Consolidado são a ele incorporados e constituem parte integrante, inseparável e indivisível do Plano Consolidado.

1.5 **TÍTULOS**. Os títulos dos capítulos e das cláusulas deste Plano Consolidado foram incluídos exclusivamente para referência e não devem afetar sua interpretação ou o conteúdo de suas disposições.

1.6 **TERMOS.** Os termos "incluem", "incluindo" e termos similares devem ser interpretados como se estivessem acompanhados da expressão, "mas não se limitando a".

1.7 **REFERÊNCIAS**. As referências a quaisquer documentos ou instrumentos incluem todos os respectivos aditivos, consolidações e complementações, conforme aplicáveis, exceto se de outra forma expressamente previsto neste Plano Consolidado.

1.7.1 Todas as referências ao Novo Acordo de Apoio ao Plano devem compreender seus anexos, bem como o Term Sheet e seus respectivos Apêndices.

1.8 **DISPOSIÇÕES LEGAIS**. As referências a disposições legais e leis devem ser interpretadas como referências a essas disposições tais como vigentes nesta data ou em data que seja especificamente determinada pelo contexto.

1.9 **PRAZOS**. Todos os prazos previstos neste Plano Consolidado serão contados na forma determinada no artigo 132 do Código Civil, desprezando-se o dia do começo e incluindo-se o dia do vencimento. Quaisquer prazos deste Plano Consolidado (sejam contados em Dias Úteis ou não) cujo termo final caia em um dia que não seja um Dia Útil serão automaticamente prorrogados para o primeiro Dia Útil subsequente, exceto se disposto de forma diversa no Novo Acordo de Apoio ao Plano e no Term Sheet.

2 CONSIDERAÇÕES GERAIS.

2.1 **BREVE HISTÓRICO**. Em 1980, foi fundada no Rio de Janeiro a Queiroz Galvão Perfurações S.A. – o embrião do Grupo Constellation e, atualmente, denominada Serviços de Petróleo Constellation S.A.

Inicialmente, prestando serviços à Petrobras, a atuação do Grupo Constellation se deu através da locação de sondas de perfuração terrestres, as chamadas sondas onshore, com atuação, principalmente, no Norte e Nordeste do país.

Paralelamente ao desenvolvimento da atividade de perfuração onshore, acompanhando o novo momento econômico do Brasil, o Grupo Constellation se desenvolveu e internacionalizou, passando a se dedicar também à atividade de perfuração offshore, com marcada atuação em águas ultra profundas.

Atualmente, o Grupo Constellation detém o total de 17 sondas, das quais: (a) 9 sondas de perfuração onshore, sendo 4 convencionais e 5 helitransportáveis; e (b) 8 sondas de perfuração offshore, sendo 2 semissubmersíveis ancoradas para operação em lâmina d'água de até 1.100 metros, 3 de posicionamento dinâmico para operação em lâmina d'água de até 2.700 metros e 3 navios-sonda para operação em lâmina d'água até 3.000 metros.

A atividade operacional predominante do Grupo Constellation se dá por meio das sondas offshore, que do total de 8, 7 estão no Brasil. As referidas sondas foram adquiridas pelo Grupo Constellation conforme a demanda do setor de óleo e gás brasileiro, a fim de atender, prioritariamente, os prospectos empreendidos pela Petrobras no país.

O Grupo Constellation é líder em desempenho em operações no pré-sal devido: (a) à sua elevada eficiência operacional; (b) à tecnologia de monitoramento de operações em tempo real (RTOC), que permite a supervisão das operações à distância e o aumento da segurança de processos, por meio do acompanhamento de performance e colaboração na resolução de problemas; (c) à larga experiência com as questões operacionais, que contemplam uma tripulação ambientada com os desafios deste ambiente operacional, em conjunto com procedimentos especialmente desenvolvidos para auxiliar a atividade de perfuração; e (d) aos equipamentos das unidades de perfuração perfeitamente adaptados às especificidades da área do pré-sal.

Em suma, o Grupo Constellation constitui um dos maiores grupos empresariais do setor de de prestação de serviços para exploração de óleo e gás com atuação no Brasil, tendo sua notabilidade e excelência sido reconhecidas pelos seus clientes, pela ANP e por players institucionais. Portanto, é inquestionável a importância das Recuperandas, sendo fundamental o seu soerguimento e sua preservação para o setor de óleo e gás no país.

2.2 ESTRUTURA SOCIETÁRIA E OPERACIONAL. Cuida-se da estrutura societária exposta no Anexo VIII do Novo Acordo de Apoio ao Plano, típica do setor de óleo e gás, com a sociedade mãe no exterior controlando sociedades de propósito específico, também no exterior, que tomam financiamento no exterior, adquirem sondas e as afretam a cliente – historicamente, no caso do Grupo Constellation, a Petrobras –, com a empresa operacional localizada no país do cliente, onde as sondas efetivamente operam, no caso o Brasil.

2.3 RAZÕES DA CRISE. Em 2018, a situação financeira do Grupo Constellation decorria de uma série de fatores, notadamente: a queda do preço do barril do petróleo, a crise da demanda no setor de óleo e gás, a contratação de financiamentos para aquisição de unidades de perfuração, as restrições de acesso a crédito para empresas do setor de óleo e gás, a queda da taxa de remuneração dos contratos de prestação de serviços e afretamento, a conjuntura e o cenário político e econômico do Brasil, o Programa de Desinvestimento da Petrobras, exigências regulatórias e o aumento da carga tributária.

A este cenário soma-se a conjuntura econômica do nosso país. O Grupo Constellation tem sua atividade operacional desenvolvida principalmente no Brasil, fornecendo serviços prioritariamente para uma empresa brasileira, sabidamente, a Petrobras. Ou seja, os efeitos da crise no país ressoaram imperdoavelmente sobre as Recuperandas, historicamente prestadoras de serviços para a Petrobras.

Não por outro motivo, a crise sem precedentes gerou dificuldades não só para a estatal, mas, naturalmente, para toda a sua cadeia de fornecedores.

Portanto, apesar das Recuperandas serem sociedades altamente reconhecidas no mercado pela sua solidez e pela sua capacidade administrativa-operacional e eficiência, a crise econômica e petrolífera que se instaurou internacionalmente e, principalmente, no território brasileiro, afetou brutalmente o seu fluxo de caixa, tornando necessária, para a manutenção integral de suas atividades, a Reestruturação de suas dívidas por meio da Recuperação Judicial.

O Plano Original descreveu as diferentes condições e medidas a serem adotadas para a necessária reestruturação do passivo do Grupo Constellation e

reversão da crise momentânea, tenham sido integralmente pagos os Créditos Trabalhistas e dos Credores Fornecedores Parceiros listados.

A despeito disso, diante de um novo contexto fático e mercadológico ocasionado, especialmente, em razão do cenário pandêmico que afeta todos os ramos da economia, o Grupo Constellation se viu diante da necessidade de alterar o Plano Original, adequando-o ao novo cenário extraordinário e imprevisível, de modo a permitir, assim, a preservação das suas atividades empresariais e, consequentemente, a manutenção da fonte produtora e de postos de trabalho, bem como a promoção de sua função social.

É nesse contexto que o Grupo Constellation apresenta o presente Plano Consolidado, no intuito de possibilitar a implementação de novas medidas para restruturação de suas obrigações, o qual submete à apreciação dos seus Credores e do Juízo da Recuperação.

2.4 VIABILIDADE ECONÔMICA E OPERACIONAL. O Grupo Constellation tem confiança de que a crise de liquidez enfrentada é passageira e não deve afetar de forma definitiva a solidez das suas atividades.

Isso porque as Recuperandas são sociedades altamente capacitadas e especializadas e estão aptas a participar do novo cenário do setor de óleo e gás no país, que irá, necessariamente, proporcionar a exploração do petróleo do pré-sal.

Adicionalmente, as Recuperandas já estão sendo muito bem-sucedidas em relação a novos negócios. Embora a gênese do Grupo Constellation seja a prestação de serviços à Petrobras e sem deixar de participar dos processos de concorrência conduzidos pela estatal, como forma de enfrentar a crise no país, as Recuperandas tem firmado contratos com outras empresas do setor.

Para além disso, em uma perspectiva global, o cenário futuro político e econômico do Brasil é positivo para o setor de óleo e gás, diante da grande demanda de energia mundial e, principalmente, da previsão de aumento do preço dos produtos básicos energéticos.

Com efeito, o cenário para o setor é positivo e a demanda por sondas offshore para exploração em águas ultra profundas tende a aumentar para os próximos anos. Neste sentido, a relevância do Grupo Constellation desponta no setor, já que 6 de suas 8 sondas offshore são aptas para perfuração em águas ultra profundas, sendo certo que o Grupo Constellation é líder em operações do gênero, incluindo áreas do pré-sal brasileiro.

Portanto, está claro o grande interesse no estímulo às atividades das Recuperandas. A Recuperação Judicial possibilitará a manutenção de mais de 1.200 postos de trabalho diretos no país – e tantos outros indiretos –, a implementação de medidas e eficiência operacional e reestruturação societária, permitindo a atuação competitiva no setor de óleo e gás do país – e internacionalmente.

Não há dúvidas que o Grupo Constellation é completamente viável e de grande importância para o segmento de óleo e gás, sendo certo que há total comprometimento não só em garantir a melhor performance possível nos contratos em curso – possibilitando eventual renovação –, como também total empenho na acirrada disputa por novos contratos. Prova disso é o fato de que o status relatado na Data do Pedido é substancialmente diferente do atual: hoje, todas as sondas offshore do Grupo Constellation estão contratadas.

Todos esses fatores induzem a conclusão de que a Recuperação Judicial do Grupo Constellation é plenamente possível, o que atende aos fins da LRF. A viabilidade da Recuperação Judicial do Grupo Constellation é atestada e confirmada pelos Laudos, subscritos por empresa especializada, conforme artigo 53, incisos II e III, da LRF, os quais constam do Anexo I e II ao Plano Original.

3 VISÃO GERAL DAS MEDIDAS DE REESTRUTURAÇÃO.

3.1 OBJETIVO DO PLANO CONSOLIDADO. O Plano Consolidado visa permitir que as Recuperandas superem sua crise econômico-financeira a partir da implementação de medidas essenciais previstas neste Plano Consolidado. Todas as medidas, cuja implementação vincula a continuidade do procedimento de Recuperação Judicial e seus efeitos, são essenciais para o equacionamento e pagamento dos Créditos Concursais, bem como para o fortalecimento da posição de caixa do Grupo

Constellation e, assim, assegurar que as Recuperandas mantenham a atividade operacional de excelência e permaneçam competitivas para a atração das crescentes oportunidades comerciais. A consecução dos objetivos do Plano Consolidado permitirão o soerguimento empresarial bem-sucedido, preservando-se, em última análise, a manutenção de empregos diretos e indiretos e os direitos de seus Credores.

3.2 MEIOS DE RECUPERAÇÃO. O Grupo Constellation equiacionará e liquidará seus Créditos Concursais utilizando-se dos meios de recuperação previstos neste Plano Consolidado, o qual prevê: (i) a liquidação e/ou oneração de sociedades, na forma da Cláusula 4 abaixo; (ii) a alienação de Ativos, na forma da Cláusula 5 abaixo; (iii) a captação de novos recursos, na forma da Cláusula 6 abaixo; (iv) a utilização de recursos oriundos de um Evento de Liquidez Qualificado para pagamento de Créditos Concursais, na forma da Cláusula 7 abaixo; (v) a reestruturação de vencimentos, encargos, termos e condições de pagamento, incluindo, mas não se limitando, a utilização de Saldo de Caixa Excedente, na forma da Cláusula 8 abaixo; e (vi) a conversão de dívida em capital social ou valores mobiliários da Constellation Holding, conforme previsto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos e nas Claúsulas 9 abaixo.

3.3 ATOS E PROCEDIMENTOS NECESSÁRIOS PARA IMPLEMENTAÇÃO DO PLANO CONSOLIDADO, DO NOVO ACORDO DE APOIO AO PLANO E DO TERM SHEET. As Recuperandas estão obrigadas, até a Data de Fechamento (inclusive), sob pena de descumprimento imediato deste Plano Consolidado, a obter todas as autorizações necessárias, incluindo as autorizações societárias aplicáveis, bem como a praticar todos os atos, incluindo atos societários, necessários para implementação dos meios de recuperação previstos neste Plano Consolidado, no Novo Acordo de Apoio ao Plano e no Term Sheet, aí se incluindo, mas não se limitando, a obtenção de aprovações dos Acionistas Originais em assembleia geral de acionistas da Constellation Holding para (a) a reforma de seu estatuto social e alteração da estrutura de governança; (b) a realização futura de quantos aumentos de capital social forem necessários para implementação do Plano Consolidado, do Novo Acordo de Apoio ao Plano e do Term Sheet, em especial a conversão em capital social de determinados Créditos, conforme previsto neste Plano Consolidado; (c) contratação e outorga de garantias

dos Novos Recursos Capex e do Novo Financiamento DIP Prioritário; e (d) celebração dos Novos Instrumentos de Reestruturação. Adicionalmente, as Recuperandas poderão tomar todas as providências cabíveis e necessárias em toda e qualquer jurisdição aplicável, incluindo Brasil, Estados Unidos da América, Ilhas Virgens Britânicas e Ilhas Cayman, estritamente a fim de cumprir com as respectivas legislações aplicáveis e implementar as medidas previstas neste Plano Consolidado, no Novo Acordo de Apoio ao Plano e no Term Sheet.

4 LIQUIDAÇÃO DE SOCIEDADES.

4.1 SOCIEDADES ESPECÍFICAS. Como medida de otimização da estrutura corporativa do Grupo Constellation, com vista à redução de custos e eficiência administrativa, as sociedades listadas no Anexo X do Novo Acordo de Apoio ao Plano serão dissolvidas, liquidadas ou de outra forma baixadas de acordo com a legislação aplicável, observadas as condições estabelecidas no Novo Acordo de Apoio ao Plano.

5 ALIENAÇÃO E/OU ONERAÇÃO DE ATIVOS.

5.1 FORMA E OBJETIVO. Como forma de obtenção de recursos, reforço de liquidez para a estrutura de capital das Recuperandas, reinvestimento nos negócios e otimização da operação, o Grupo Constellation poderá realizar a Alienação de Ativos, seja na forma de venda direta, na forma do artigo 66 da LRF, ou de processo competitivo de venda de unidade produtiva isolada, nos termos do artigo 60, caput e parágrafo único, artigo 142 e demais disposições aplicáveis da LRF e artigo 133, §1º, do Código Tributário Nacional, desde que respeitados os termos deste Plano Consolidado, do Novo Acordo de Apoio ao Plano e seus anexos, bem como do Apêndice VI do Term Sheet, dos respectivos instrumentos societários das Recuperandas e da legislação aplicável ao Processo Auxiliar no Exterior em curso nas Ilhas Virgens Britânicas e Ilhas Cayman.

5.2 PEDIDO DE AUTORIZAÇÃO. Salvo se expressamente previsto neste Plano Consolidado e/ou já implementada consoante estabelecido no Plano Original, toda e qualquer alienação de ativo, enquanto as Recuperandas remanescerem em Recuperação Judicial, deverá ser precedida de pedido de autorização judicial, na forma do artigo 66 da LRF.

5.3 DESTINAÇÃO DE RECURSOS. Os recursos provenientes de seguros ou da alienação de todos e quaisquer Ativos que sirvam de garantia aos Credores com Garantia Real deverão ser utilizados conforme especificado no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet; e, após a Data de Fechamento, conforme especificado nos Novos Instrumentos da Reestruturação.

6 NOVOS RECURSOS.

6.1 NOVOS RECURSOS CAPEX. Respeitadas as disposições do Novo Acordo de Apoio ao Plano, do Term Sheet e dos seus respectivos anexos, a partir da Data de Fechamento, o Grupo Constellation poderá contrair novas dívidas, em termos usuais de mercado, para fazer frente às despesas de capital relacionadas às sondas (incluindo despesas de manutenção, atualização ou adaptação, mas excluindo qualquer aquisição de nova sonda) no valor total agregado equivalente a US$ 30.000.000,00 ("Novos Recursos CAPEX").

6.1.1 AUTORIZAÇÃO PARA A CONCESSÃO DE GARANTIA PRIORITÁRIA. Os Credores Apoiadores, a fim de possibilitar a concessão dos Novos Recursos CAPEX, autorizam expressamente o compartilhamento e a concessão de prioridade sobre parcela de suas garantias previstas neste Plano Consolidado, exclusivamente na forma e respeitados os limites e as disposições dos Apêndices VI e XI do Term Sheet, observado que, em qualquer caso, tal garantia será subordinada às garantias constituídas em favor do Novo Finaciamento DIP Prioritário. Na forma e respeitadas as disposições dos Apêndices VI e XI do Term Sheet, todos os instrumentos que formalizarem esses novos financiamentos devem conter disposição expressa obrigando o mutuante a concordar com a subordinação da sua garantia ao Novo Financiamento DIP Prioritário.

6.2 NOVO FINANCIAMENTO DIP PRIORITÁRIO.

6.2.1 NECESSIDADE. A crise que motivou a apresentação deste Plano Consolidado pelas Recuperandas prejudicou sobremaneira o plano de negócios do Grupo Constellation, criando despesas adicionais de alto valor. Assim, a possibilidade de contrair o Novo Financiamente DIP Prioritário é essencial ao soerguimento das Recuperandas. Por esta razão, esta reestruturação lastreou-se principalmente na

dedicação de esforços para a prospecção de um novo financiamento em montante suficiente para atender as suas necessidades operacionais.

6.2.2 OPÇÃO. Ao longo de meses de prospecção, o financiamento proposto pelo Grupo *Ad Hoc* se mostrou a única alternativa para as Recuperandas, de forma a conciliar o alto montante imprescindível às operações do Grupo Constellation e a necessidade de concessão de garantias prioritárias em relação às garantias já constituídas em favor dos Credores Apoiadores.

6.2.3 AUTORIZAÇÃO. A partir da Data de Fechamento, inclusive, os Credores Concursais aprovam a contratação pela Constellation Holding de um novo empréstimo, nos termos dos artigos 67, 69-A e seguintes da Seção IV-A, e artigo 84 I-B da LRF, a ser concedido pelo Grupo *Ad Hoc*, no valor principal de US$ 60.000.000,00, observado o disposto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos, o qual possui as seguintes principais características ("Novo Financiamento DIP Prioritário"):

a) Valor principal: US$60.000.000,00.

b) Prazo: 3 (três) anos contados da data do desembolso.

c) Amortização:

(i) até o 16º mês contado da data do desembolso: nenhuma amortização;

(ii) entre o 16º mês e o 24º mês, inclusive, contados da data do desembolso: 8% do valor principal a cada trimestre;

(iii) após o 24º mês contado da data de desembolso: 19% do valor principal a cada trimestre.

d) Encargos: 13,5% a.a., a serem pagos no último dia de Março, Junho, Setembro e Dezembro de cada ano, com início no primeiro mês de Março, Junho, Setembro ou Dezembro imediatamente subsequente à data do desembolso.

e) Garantias: serão prestadas garantias reais e fidejussórias, na forma e identificadas no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet, as quais serão prestadas pelos mesmos garantidores dos Créditos dos Credores Apoiadores, sendo certo ainda que as garantias prestadas em favor dos Credores do Novo Financiamento DIP Prioritário terão prioridade na forma da Cláusula 6.2.5 abaixo.

f) Forma: a ser documentado pela emissão de notas (títulos de crédito) pela Constellation Holding, que serão regidas pela Lei de Nova Iorque.

g) Possibilidade de Pré-Pagamento: observados os termos e condições do Novo Acordo de Apoio ao Plano e seus anexos, bem como do Term Sheet, nas seguintes hipóteses:

(i) Sem envolver um Evento de Liquidez:

- Até o 18º mês contado da Data de Fechamento: sem possibilidade de pré-pagamento;

- Entre o 18º mês e o 24º mês, inclusive, contados da Data de Fechamento: o pré-pagamento deverá ser realizado aplicando-se a taxa de 113,5% sobre o saldo em aberto; e

- Entre o 24º mês e o 30º mês, inclusive, contados da Data de Fechamento: o pré-pagamento deverá ser realizado aplicando-se a taxa de 106,75% sobre o saldo em aberto.

(ii) Em caso de Evento de Liquidez:

- Até o 12º mês, inclusive, contado da Data de Fechamento: o pré-pagamento deverá ser realizado

aplicando-se a taxa de 113,5% sobre o saldo em aberto;

- Entre o 12º mês e o 24º mês, inclusive, contados da Data de Fechamento: o pré-pagamento deverá ser realizado aplicando-se a taxa de 106,75% sobre o saldo em aberto; e

- A partir do 24º mês contado da Data de Fechamento: o pré-pagamento deverá ser realizado aplicando-se a taxa de 103,375% sobre o saldo em aberto.

h) Conversão: Os Credores do Novo Financiamento DIP Prioritário receberão Direitos de Valor Contingente, na forma dos Apêndices VI e VIII do Term Sheet.

i) Demais termos e condições: a contratação do Novo Financiamento DIP Prioritário está sujeita às condições previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como o Term Sheet e o Termo de Compromisso Financeiro e nos Novos Instrumentos de Reestruturação, os quais serão negociados e firmados conforme disposições e condições habituais e de mercado para esse tipo de financiamento, inclusive no que tange ao pagamento de comissões e despesas.

6.2.4 NÃO SUJEIÇÃO À RECUPERAÇÃO JUDICIAL DO NOVO FINANCIAMENTO DIP PRIORITÁRIO. Nos termos dos artigos 67 e 69-A e seguintes da LRF, as Recuperandas e os Credores Concursais reconhecem que, em qualquer hipótese e para todos os fins e efeitos de direito, o Novo Financiamento DIP Prioritário (bem como quaisquer de seus acessórios, tais como juros, encargos e multas) não está sujeito à Recuperação Judicial ou a quaisquer de seus efeitos, sendo certo que, em caso de convolação da Recuperação Judicial em falência, será observado o artigo 84 I-B da LRF ou ainda, em caso de descumprimento de qualquer das obrigações relativas ao Novo Financiamento DIP Prioritário, seus titulares poderão, automaticamente,

exercer todos os seus direitos, medidas e ações voltados à cobrança do crédito do Novo Financiamento DIP Prioritário nas condições contratadas.

6.2.5 AUTORIZAÇÃO PARA A CONCESSÃO DE GARANTIA PRIORITÁRIA. Os Credores Apoiadores, a fim de possibilitar a concessão do Novo Financiamento DIP Prioritário, essencial para o soerguiamento das Recuperandas, autorizam expressamente o compartilhamento e a concessão de prioridade sobre parcela de suas garantias, exclusivamente na forma e desde que respeitadas as disposições dos do Novo Acordo de Apoio ao Plano, do Apêndice VI e XI do Term Sheet, e dos Novos Instrumentos de Reestruturação.

6.2.6 AUTORIZAÇÃO JUDICIAL. A Homologação Judicial do Plano Consolidado servirá para todos os fins e efeitos de direito como decisão judicial de autorização para a contratação do Novo Financiamento DIP Prioritário, nos termos do artigo 69-A e seguintes da LRF.

7 UTILIZAÇÃO DE RECURSOS DE UM EVENTO DE LIQUIDEZ QUALIFICADO.

7.1 **ORDEM DE PAGAMENTOS**. Observado o Novo Acordo de Apoio ao Plano e respeitadas as disposições do Apêndice VIII do Term Sheet, na ocorrência de um Evento de Liquidez Qualificado, os recursos líquidos (cujo valor, se não for em dinheiro, será determinado por um banco de investimento independente contratado pelo Conselho de Administração da Constellation Holding) daí provenientes serão inicialmente alocados e distribuídos da seguinte forma:

(i) Primeiramente, para o pagamento em dinheiro do Novo Financiamento DIP Prioritário pelo valor ajustado conforme previsto na Cláusula 6.2.3 acima e no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos;

(ii) Em segundo lugar, para o pagamento integral e em dinheiro dos Novos Recursos CAPEX;

(iii) Em terceiro lugar, para o pagamento integral e em dinheiro do Contrato de Empréstimo ALB Garantido LC.

O saldo remanescente dos recursos líquidos do Evento de Liquidez Qualificado, após os pagamentos prioritários previstos em (i), (ii) e (iii) acima ("Recursos Líquidos do Evento de Liquidez"), deverá ser distribuído da seguinte forma:

(i) Primeiro, o montante equivalente ao Valor da Conversão da Dívida, calculado na forma estipulada nos Apêndices I a IV do Term Sheet, será distribuído aos Acionistas Classe C, conforme aplicável;

(ii) Por fim, o valor remanescente deverá ser distribuído aos Acionistas Classe A e aos Acionistas Classe B de forma *pro rata,* de acordo com as disposições do Apêndice VIII do Term Sheet.

8 REESTRUTURAÇÃO E LIQUIDAÇÃO DE DÍVIDAS.

8.1 PAGAMENTO DOS CREDORES TRABALHISTAS. Todos os Credores Trabalhistas terão seus Créditos Trabalhistas adimplidos sem a incidência de juros ou correção monetária em até 180 dias contados (i) da Data de Homologação; (ii) para os Credores Trabalhistas Pessoas Físicas detentores de Créditos Sub-Judice, da data em que referido crédito tornar-se certo, líquido e exigível; ou (iii) para os Credores Trabalhistas que forem Credores Retardatários, (a) da data em que suas habilitações forem julgadas procedentes mediante o respectivo trânsito em julgado, se posterior a Data da Homologação, (b) voluntariamente reconhecidas pelas Recuperandas, e/ou (c) objeto de acordo.

8.2 PAGAMENTO DOS CREDORES COM GARANTIA REAL. A diferenciação nos critérios de reestruturação dos Créditos com Garantia Real reflete a diferenciação de natureza jurídica das relações contratuais, conforme já reconhecido no Plano Original. De todo modo, entre a Data de Homologação e a Data de Fechamento não incorrerão juros e/ou correção monetária sobre o saldo devedor de nenhum dos Créditos com Garantia Real.

8.2.1 PAGAMENTO DOS CRÉDITOS ALB. Tendo em vista a natureza e origem dos Créditos ALB, o pagamento dos Créditos ALB detidos pelos Credores ALB observará integralmente o estipulado no Novo Acordo de Apoio ao Plano e seus anexos, bem como nos Apêndices I-A e I-B do Term Sheet. O pagamento será instrumentalizado por meio (i) da celebração do Contrato de Empréstimo Reestruturado ALB; (ii) do

Contrato de Empréstimo ALB Garantido LC e (iii) somente com relação aos Credores Brava, da emissão dos Bônus de Subscrição. Os termos e condições de todos os instrumentos seguem abaixo resumidos:

[redacted] CONTRATO DE EMPRÉSTIMO REESTRUTURADO ALB:

(a) VENCIMENTO: 31.12.2026.

(b) AMORTIZAÇÃO INICIAL. Todo saldo de caixa existente nas Contas Reserva na Data de Fechamento será utilizado para amortizar parte dos Créditos ALB nas seguintes proporções: (i) US$ 15.062.467,14 com relação aos *Amaralina Star Term Loans*; e (ii) US$ 2.535.123,06 com relação aos Créditos Brava.

(c) DESCONTO. Após a amortização inicial descrita na Cláusula 8.2.1.1(b) acima, os Créditos ALB serão reestruturados, de modo que o saldo do principal devido pelas Recuperandas passe a totalizar o montante US$ 500.000.000,00, a serem alocados de forma pro rata para os Credores ALB da seguinte forma: (i) US$ 304.630.253,78, com relação aos Créditos A/L; e (ii) US$ 195.369.746,22, com relação aos Créditos Brava, observado ainda o saldo devedor do Contrato de Empréstimo ALB Garantido LC, na Data de Fechamento.

(d) JUROS E CORREÇÃO MONETÁRIA. Antes da Data de Fechamento, os Credores ALB na forma estabelecida no Novo Acordo de Apoio ao Plano, bem como no Apêndice I-A do Term Sheet, deverá indicar se os juros serão pré ou pós fixados, observadas as possibilidades indicadas na tabela abaixo. No mínimo 3 (três) Dias Úteis antes de cada data de pagamento de juros, o Grupo Constellation deverá informar aos Credores ALB e ao agente do Contrato de Empréstimo Reestruturado ALB se os juros devidos serão pagos em dinheiro (*cash*) ou PIK. Os juros serão pagos ou capitalizados, conforme o caso, no último dia útil de março, junho, setembro e dezembro de cada ano.

Tipo de taxa de juros (*cash* ou PIK a escolha da devedora / pré ou pós	**Taxa de Juros**

fixados a escolha dos Credores ALB)	
Taxa de Juros Pós Fixados PIK	▪ SOFR *mais* 3% ao ano
Taxa de Juros Pré Fixados PIK	▪ 4% ao ano
Taxa de Juros Pós Fixados em dinheiro	▪ SOFR *mais 2*% ao ano
Taxa de Juros Pré Fixados em dinheiro	▪ 3% ao ano

(e) AMORTIZAÇÃO. As Recuperandas deverão aplicar o Saldo de Caixa Excedente na amortização dos Créditos ALB Reestruturados, observado o Novo Acordo de Apoio ao Plano e seus anexos, bem como os Apêndices I-A e IX do Term Sheet.

(f) CONVERSÃO DO CRÉDITO EM CAPITAL SOCIAL MEDIANTE EVENTO DE LIQUIDEZ. Mediante a ocorrência de um Evento de Liquidez Qualificado, conforme descrito no Novo Acordo de Apoio ao Plano e seus anexos, bem como os Apêndices I-A e VIII do Term Sheet, o total do saldo em aberto do Contrato de Empréstimo Reestruturado ALB será convertido em Ações Classe C-1, hipótese na qual terão o direito de receber os recursos líquidos decorrentes do Evento de Liquidez Qualificado, na forma estabelecida nos Apêndices I-A e VIII do Term Sheet e na Cláusula 7 acima.

(g) GARANTIAS: Serão concedidas as garantias previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice I-A do Term Sheet.

(h) OBRIGAÇÕES DE FAZER E DE NÃO FAZER: Serão observadas as obrigações de fazer e não fazer estabelecidas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice I-A do Term Sheet.

(i) EVENTOS DE INADIMPLEMENTO: Serão observados os eventos de inadimplemento estabelecidos no Novo Acordo de Apoio ao Plano e seus anexos, bem como aqueles previstos no Apêndice I-A do Term Sheet.

(j) PRÉ-PAGAMENTO: Será observada a possibilidade de pré-pagamento conforme estabelecido no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

[redacted] CONTRATO DE EMPRÉSTIMO ALB GARANTIDO LC:

(a) VALOR DO PRINCIPAL: US$ 30.200.000,00, sendo que:

(i) cada Credor A/L terá sua proporção *pro rata* de US$ 24.000.000,00, baseada na proporção do valor de principal que cada Credor A/L detém nos *Laguna Star Term Loans* em comparação com o valor do principal agregado dos *Laguna Star Term Loans*;

(ii) cada Credor Brava terá sua proporção *pro rata* de US$ 6.200.000,00, baseada na proporção do valor de principal em aberto que cada Credor Brava detém com relação ao valor do principal em aberto agregado do Contrato de Empréstimo Brava.

(b) VENCIMENTO: 31.12.2026 ou na data em que os recursos provenientes de um Evento de Liquidez Qualificado forem distribuídos, conforme previsto na Cláusula 7 acima e nos Apêndices I-B e VIII do Term Sheet, o que ocorrer primeiro.

(c) JUROS E CORREÇÃO MONETÁRIA. Antes da Data de Fechamento, os Credores ALB, na forma estabelecida pelo Novo Acordo de Apoio ao Plano, bem como no Apêndice I-B do Term Sheet, deverá indicar se os juros serão pré ou pós fixados, observadas as possibilidades indicadas na tabela abaixo. Os juros serão pagos em dinheiro (*cash*) no último dia útil de março, junho, setembro e dezembro de cada ano.

Tipo de taxa de juros (*cash*	▪ Taxa de Juros

pré ou pós fixados à escolha dos Credores ALB	
Pós Fixados	▪ SOFR *mais* 3% ao ano
Pré Fixados	▪ 4% ao ano

(d) AMORTIZAÇÃO: Não haverá amortização.

(e) GARANTIAS. Serão concedidas as garantias previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice I-B do Term Sheet, aí se incluindo, mas não se limitando, a Carta de Crédito Perene.

(f) OBRIGAÇÕES DE FAZER E DE NÃO FAZER: Serão observadas as mesmas obrigações de fazer e não fazer previstas para o Contrato de Empréstimo Reestruturado ALB.

(g) EVENTOS DE INADIMPLEMENTO: Serão observados os mesmos eventos de inadimplemento do Contrato de Empréstimo Reestruturado ALB, além da hipótese de vencimento antecipado cruzado em caso de qualquer inadimplemento do Contrato de Empréstimo Reestruturado ALB.

(h) PRÉ-PAGAMENTO: Será observada a possibilidade de pré-pagamento conforme estabelecido no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

BÔNUS DE SUBSCRIÇÃO:

(a) Na Data de Fechamento, os Credores Brava receberão Bônus de Subscrição, exercíveis a qualquer tempo e sem a necessidade de qualquer pagamento, que assegurará aos seus titulares o direito de subscrever Ações Classe B-2 representativas de 26% (vinte e seis por cento) do capital social total da Constellation Holding na Data de Fechamento.

(b) Os Bônus de Subscrição poderão ser exercidos a qualquer tempo, observado que, caso não tenham sido exercidos anteriormente, deverão ser exercidos ou terminados, a critério dos Credores Brava, na ocorrência de um Evento de Liquidez Qualificado. Os Bônus de Subscrição serão considerados como exercidos na ocorrência de um Evento de Liquidez Qualificado caso o detentor do Bônus de Subscrição não opte de forma diversa. Mediante o exercício dos Bônus de Subscrição, serão recebidas Ações Classe B-2, as quais terão os mesmos direitos e receberão o mesmo tratamento das demais ações do capital social da Constellation Holding, aí se incluindo, mas não se limitando, os direitos de *tag along* estipulados no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice VII-A do Term Sheet.

(c) Os Bônus de Subscrição serão livremente transferíveis e poderão ser negociados separadamente do Contrato de Empréstimo Reestruturado ALB, desde que cumpridas às leis aplicáveis e o Novo Acordo de Acionistas.

8.2.2 PAGAMENTO DOS CRÉDITOS NOVOS BONDS 2024 PARTICIPANTES. Tendo em vista a natureza e origem dos Créditos Novos Bonds 2024 Participantes, o pagamento dos Créditos Novos Bonds 2024 Participantes e dos Créditos Novos Bonds 2024 Participantes Não Sujeitos observará integralmente o quanto estipulado no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice II do Term Sheet. O pagamento será instrumentalizado por meio (i) da conversão de dívida em capital social da Constellation Holding; e (ii) de novas notas de crédito sênior, a serem emitidas pela Constellation Holding, na forma de escritura (*Indenture*) a ser regida pela leis de Nova Iorque, cujos termos e condições seguem abaixo resumidos:

(a) VENCIMENTO: 31.12.2026.

(b) DESCONTO: Os Créditos Novos Bonds 2024 Participantes e Créditos Novos Bonds 2024 Participantes Não Sujeitos serão reestruturados, de modo que passem a totalizar o montante de US$ 278.300.000,00, na Data de Fechamento.

(c) JUROS E CORREÇÃO MONETÁRIA: No mínimo 3 (três) Dias Úteis antes de cada data de pagamento de juros, o Grupo Constellation deverá informar se os juros devidos serão pagos em dinheiro (*cash*) ou PIK, observadas as possibilidades indicadas na tabela abaixo. Os juros serão pagos ou capitalizados, conforme o caso, no último dia útil de março, junho, setembro e dezembro de cada ano.

Pré Fixados PIK	▪ 4% ao ano
Pré Fixados *Cash*	▪ 3% ao ano

(d) AMORTIZAÇÃO. As Recuperandas deverão aplicar o Saldo de Caixa Excedente na amortização dos Créditos Novos Bonds 2024 Participantes, observado o Novo Acordo de Apoio ao Plano e seus anexos, bem como os Apêndices II e IX do Term Sheet.

(e) CONVERSÃO DO CRÉDITO EM CAPITAL SOCIAL MEDIANTE EVENTO DE LIQUIDEZ QUALIFICADO: Mediante a ocorrência de um Evento de Liquidez Qualificado, conforme descrito no Novo Acordo de Apoio ao Plano e seus anexos, bem como na forma do Apêndice VIII do Term Sheet, o total do saldo em aberto dos Novos Bonds 2024 Participantes será convertido em Ações Classe C-2, hipótese na qual terão o direito de receber os recursos líquidos decorrentes do Evento de Liquidez Qualificado, na forma estabelecida nos Apêndices II e VIII do Term Sheet e na Cláusula 7 acima.

(f) GARANTIAS: Serão concedidas as garantias previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice II do Term Sheet.

(g) OBRIGAÇÕES DE FAZER E NÃO FAZER: Serão observadas as obrigações de fazer e não fazer estabelecidas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice II do Term Sheet.

(h) EVENTOS DE INADIMPLEMENTO: Serão observados os eventos de inadimplemento estabelecidos no Novo Acordo de Apoio ao Plano e seus anexos, bem como aqueles previstos no Apêndice II do Term Sheet.

(i) PRÉ-PAGAMENTO: Será observada a possibilidade de pré-pagamento conforme estabelecido no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

8.2.3 PAGAMENTO DOS CRÉDITOS NOVOS BONDS 2024 NÃO PARTICIPANTES. Tendo em vista a natureza e origem dos Créditos Novos Bonds 2024 Não Participantes, o pagamento dos Créditos Novos Bonds 2024 Não Participantes observará integralmente o quanto estipulado no Novo Acordo de Apoio ao Plano e no Apêndice IV do Term Sheet. O pagamento será instrumentalizado por meio de novas notas de crédito sênior, emitidas pela Constellation Holding, na forma de escritura (*Indenture*) a ser regida pela leis de Nova Iorque, cujos termos e condições seguem abaixo resumidos:

(a) VENCIMENTO: 31.12.2050.

(b) DESCONTO: Os Créditos Novos Bonds 2024 Não Participantes serão reestruturados, de modo que passem a totalizar o montante de US$ 1.888.434,00, na Data de Fechamento.

(c) JUROS E CORREÇÃO MONETÁRIA. Incidirão juros de 0,25% PIK. Os juros serão capitalizados no último dia útil de março, junho, setembro e dezembro de cada ano.

(d) CONVERSÃO DO CRÉDITO EM CAPITAL SOCIAL MEDIANTE EVENTO DE LIQUIDEZ QUALIFICADO: Mediante a aprovação de um Evento de Liquidez Qualificado, conforme descrito no Novo Acordo de Apoio ao Plano, bem como na forma do Apêndice VIII do Term Sheet, o total do saldo em aberto dos Novos Bonds 2024 Não Participantes deverá ser convertido em Ações Classe C-4, hipótese na qual terão o direito de receber os recursos líquidos decorrentes do Evento de Liquidez Qualificado, na forma estabelecida nos Apêndices IV e VIII do Term Sheet e na Cláusula 7 acima.

(e) GARANTIAS: Serão concedidas as garantias previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice IV do Term Sheet.

(f) OBRIGAÇÕES DE FAZER E NÃO FAZER: Serão observadas as obrigações de fazer e não fazer estabelecidas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice IV do Term Sheet.

(g) EVENTOS DE INADIMPLEMENTO. Serão observados os eventos de inadimplemento estabelecidos no Novo Acordo de Apoio ao Plano e seus anexos, bem como aqueles previstos no Apêndice IV do Term Sheet.

(h) PRÉ-PAGAMENTO: Será observada a possibilidade de pré-pagamento conforme estabelecido no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

8.2.4 PAGAMENTO DOS CRÉDITOS BRADESCO REESTRUTURADOS. Tendo em vista a natureza e origem dos Créditos Bradesco Reestruturados, o pagamento do Bradesco observará integralmente o estipulado no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice III do Term Sheet. O pagamento será instrumentalizado por meio da celebração de instrumentos de aditamento e consolidação ao Contrato de Empréstimo Bradesco e ao Contrato de Bradesco Não Sujeito, cujos termos e condições seguem abaixo resumidos:

(a) VENCIMENTO: 31.12.2026.

(b) DESCONTO: Os Créditos Bradesco Reestruturados serão reestruturados, de modo que passem a totalizar o montante de US$ 42.700.000,00, na Data de Fechamento.

(c) JUROS E CORREÇÃO MONETÁRIA. Antes da Data de Fechamento, o Bradesco, na forma do Acordo de Apoio ao Plano, bem como do Apêndice III do Term Sheet, deverá indicar se os juros serão pré ou pós fixados, observadas as possibilidades indicadas na tabela abaixo. No mínimo 3 (três) Dias Úteis antes de cada data de pagamento de juros, o Grupo Constellation deverá informar ao Bradesco se os juros devidos serão

pagos em dinheiro (*cash*) ou PIK. Os juros serão pagos ou capitalizados, conforme o caso, no último dia útil de março, junho, setembro e dezembro de cada ano.

Tipo de taxa de juros (*cash* ou PIK a escolha da devedora / pré ou pós fixados a escolha do Bradesco)	**Taxa de Juros**
Taxa de Juros Pós Fixados PIK	▪ SOFR *mais* 3% ao ano
Taxa de Juros Pré Fixados PIK	▪ 4% ao ano
Taxa de Juros Pós Fixados em dinheiro	▪ SOFR *mais* 2% ao ano
Taxa de Juros Pré Fixados em dinheiro	▪ 3% ao ano

(d) AMORTIZAÇÃO. As Recuperandas deverão aplicar o Saldo de Caixa Excedente na amortização dos Créditos Bradesco Reestruturados, observado o Novo Acordo de Apoio ao Plano e seus anexos, bem como os Apêndices III e IX do Term Sheet.

(e) CONVERSÃO DO CRÉDITO EM CAPITAL SOCIAL MEDIANTE EVENTO DE LIQUIDEZ: Mediante a ocorrência de um Evento de Liquidez Qualificado, conforme descrito no Novo Acordo de Apoio ao Plano e seus anexos, bem como na forma do Apêndice VIII do Term Sheet, o total do saldo em aberto dos Créditos Bradesco Reestruturados deverá ser convertido em Ações Classe C-3, hipótese na qual terá o direito de receber os recursos líquidos decorrentes do Evento de Liquidez Qualificado, na forma estabelecida nos Apêndices III e VIII do Term Sheet e na Cláusula 7 acima.

(f) GARANTIAS: Serão concedidas as garantias previstas no Novo Acordo de Apoio ao Plano e seus anexos, bem como aquelas previstas no Apêndice III do Term Sheet.

(g) OBRIGAÇÕES DE FAZER E NÃO FAZER: Serão observadas as obrigações de fazer e não fazer estabelecidas no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice III do Term Sheet.

(h) EVENTOS DE INADIMPLEMENTO. Serão observados os eventos de inadimplemento estabelecidos no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice III do Term Sheet.

(i) PRÉ-PAGAMENTO: Será observada a possibilidade de pré-pagamento conforme estabelecido no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

8.3 PAGAMENTO DOS CREDORES QUIROGRAFÁRIOS. Todos os Créditos Quirografários, ressalvadas a forma de pagamento prevista na Cláusula 8.3.1, bem como as previsões contidas nas Cláusulas 8.5, 8.6 e 8.7 abaixo, serão pagos sem a incidência de juros ou correção monetária, até 31 de dezembro de 2050.

8.3.1 PAGAMENTO DOS CRÉDITOS BONDS 2030. Tendo em vista a natureza e origem dos Créditos Bonds 2030, o pagamento dos Créditos Bonds 2030 observará integralmente o quanto estipulado no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice V do Term Sheet. O pagamento será instrumentalizado por meio de novas notas de crédito, emitidas pela Constellation Holding, na forma de escritura (*Indenture*) a ser regida pela leis de Nova Iorque, cujos termos e condições seguem abaixo resumidos:

(a) VENCIMENTO: 31.12.2050.

(b) DESCONTO: Os Créditos Bonds 2030 serão reestruturados, de modo que passem a totalizar o montante de US$ 3.111.566,00, na Data de Fechamento.

(c) JUROS E CORREÇÃO MONETÁRIA. Incidirão juros de 0,25% PIK. Os juros serão capitalizados no último dia útil de março, junho, setembro e dezembro de cada ano.

(d) CONVERSÃO DO CRÉDITO MEDIANTE EVENTO DE LIQUIDEZ: Mediante a ocorrência de um Evento de Liquidez Qualificado, conforme descrito no Apêndice VIII do Term Sheet, o total do saldo em aberto dos Créditos Bonds 2030 deverá ser convertido em Ações Classe C-4, hipótese na qual terá o direito de receber os recursos líquidos decorrentes do Evento de Liquidez Qualificado, na forma estabelecida nos Apêndices V e VIII do Term Sheet e na Cláusula 7 acima.

(e) PRÉ-PAGAMENTO: Será observada a possibilidade de pré-pagamento conforme estabelecido no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

8.4 PAGAMENTO DOS CREDORES ME/EPP. Todos os Créditos ME/EPP, ressalvada a incidência das previsões contidas nas Cláusulas 8.5, 8.6 e 8.8 abaixo, serão pagos, sem a incidência de juros ou correção monetária, em até 2 (dois) anos contados da Data de Homologação.

8.5 PAGAMENTO DOS CRÉDITOS DE FORNECEDORES. O pagamento dos Créditos de Fornecedores detidos pelos Credores Fornecedores serão pagos sem a incidência de juros ou correção monetária e em até 2 (dois) anos contados da Data de Homologação, ressalvada a incidência das hipóteses previstas nas Cláusulas 8.6 e 8.7 abaixo.

8.6 PAGAMENTO DOS CREDORES PARCEIROS. Os Credores Parceiros que não tiverem outra condição específica de pagamento prevista neste Plano Consolidado, ainda que sejam Credores Retardatários, serão pagos sem a incidência de juros ou correção monetária em até 180 (cento e oitenta) dias a contar da Data de Homologação. Para o bem da clareza: poderão ser realizados pagamentos parciais ou não pelas Recuperandas, desde que o pagamento integral se dê em 180 (cento e oitenta) dias a contar da Data de Homologação.

8.7 PAGAMENTO DOS CRÉDITOS ILÍQUIDOS. Todos os Créditos Ilíquidos, inclusive aqueles que também vierem a ser classificados como Créditos Retardatários, serão pagos sem a incidência de juros ou correção monetária até 31 de dezembro de 2050.

8.8 PAGAMENTO DOS CRÉDITOS RETARDATÁRIOS. Todos os Créditos Retardatários, se de outro modo não dispuser esse Plano Consolidado, serão pagos sem a incidência de juros ou correção monetária até 31 de dezembro de 2050.

8.9 PAGAMENTO DOS CRÉDITOS DETIDOS PELOS CREDORES SUB-ROGATÁRIOS. Os Créditos sub-rogados detidos pelos Credores Sub-rogatários serão pagos nas mesmas condições previstas nesse Plano Consolidado para pagamento do respectivo Crédito sub-rogado.

9 QUESTÕES DE GOVERNANÇA DECORRENTES DA REESTRUTURAÇÃO DAS DÍVIDAS E DA CONVERSÃO DE DÍVIDA EM CAPITAL SOCIAL DA CONSTELLATION HOLDING.

9.1 QUADRO SOCIETÁRIO PÓS-DATA DE FECHAMENTO. Um vez convertida a dívida das Recuperandas em capital social ou valores mobiliários da Constellation Holding, o quadro societário da Constellation Holding deverá refletir a seguinte composição:

- Acionistas Originais: 27,0% (representados por Ações Classe A);
- Credores dos Novos Bonds 2024 Participantes: 47,0% (representados por Ações Classe B-1); e
- Titulares dos Bônus de Subscrição: se exercido, 26,0% (representados pelo direito de compra de Ações Classe B-2).

9.1.1 A composição das novas participações societárias esmiuçada na Cláusula 9.1 acima, não reflete a conversão da nova dívida conversível ou dos Direitos de Valor Contingente, mas reflete o exercício, na íntegra, dos Bônus de Subscrição. Para o bem da clareza, se os Bônus de Subscrição não forem exercidos, a alocação *pro forma* das novas participações societárias se dará da seguinte maneira:

- Acionistas Originais: 36,5% (representados por Ações Classe A);
- Credores dos Novos Bonds 2024 Participantes: 63,5% (representado por Ações Classe B-1).

9.2 AUSÊNCIA DE SUCESSÃO. Em todas as disposições deste Plano Consolidado em que haja a previsão da conversão de dívida em capital social ou valores

mobiliários da Constellation Holding, a referida conversão ocorrerá, para todos e quaisquer fins e efeitos, de modo que não haja sucessão ou responsabilidade dos Credores pelas dívidas de qualquer natureza das Recuperandas perante terceiros, em razão da mera conversão da dívida em capital social, inclusive em virtude do exercício do Bônus de Subscrição ou dos Direitos de Valor Contingente, conforme disposto no §3º do artigo 50 da LRF, observada em qualquer hipótese o Novo Acordo de Apoio ao Plano e seus anexos, bem como o Term Sheet.

9.3 DIREITOS CONFERIDOS AOS ACIONISTAS ORIGINAIS. Na Data de Fechamento, LuxCo ou o Trust Cayman, conforme o caso, e CIPEF, receberão Direitos de Valor Contingente na forma estabelecida no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet.

9.4 RESTRIÇÕES REFERENTES À LUXCO. Na Data de Fechamento, sob pena de descumprimento deste Plano Consolidado, qualquer nova participação, direitos ou títulos societários a serem atribuídos à LuxCo serão mantidos em um *trust* constituído de acordo com as leis das Ilhas Cayman, sendo certo que tal participação, direitos ou títulos societários permanecerão sob titularidade exclusiva do Trust Cayman até que se cumpra integralmente o disposto nos documentos que regem o Trust Cayman e no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

9.5 NOVO ACORDO DE ACIONISTAS. O Novo Acordo de Acionistas será celebrado entre (i) a Constellation Holding, (ii) os Acionistas Classe A, (iii) os Acionistas Classe B; (iv) titulares dos Bônus de Subscrição e (v) os representantes dos titulares das dívidas que serão conversíveis em Ações Classe C-1, Ações Classe C-2, Ações Classe C-3, e Ações Classe C-4. Para todos os fins de direito, as Ações Classe A, Ações Classe B-1, Ações Classe B-2, Ações Classe C-1, Ações Classe C-2, Ações Classe C-3 e Ações Classe C-4 constituirão todo o capital social da Constellation Holding após a Data de Fechamento e terão todos os mesmos direitos e privilégios, observadas as demais disposições estabelecidas no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice VII-A do Term Sheet.

9.5.1 PRINCIPAIS ASPECTOS DO NOVO ACORDO DE ACIONISTAS. O Novo Acordo de Acionistas, o qual será regido pelas leis de Luxemburgo, conterá, dentre outras especificadas no Apêndice VII-A do Term Sheet, as seguintes disposições:

(i) Todos os Acionistas terão direito de *tag along pro rata* em relação a qualquer venda de mais do que 50% do capital social da Constellation Holding (assumindo a conversão da totalidade dos Bônus de Subscrição) por uma pessoa ou grupo em uma única transação ou série de transações relacionadas, exceto para afiliadas ou entre os Acionistas então existentes ou titulares do Direitos de Valor Contingente (excluídas afiliadas ou os Acionistas ou titulares de Direitos de Valor Contingente que, junto com suas afiliadas, detenham menos do que 3% da participação acionária total da Constellation Holding (assumindo a conversão total dos Bônus de Subscrição, mas excluindo qualquer participação acionária e os Bônus de Subscrição que sejam adquiridos por meio da referida aquisição) imediatamente antes de referida aquisição);

(ii) todos os titulares de participação acionária (incluindo ações, bônus de subscrição, Direitos de Valor Contingente e instrumentos de conversão de dívidas) poderão ser obrigados a vender suas participações em decorrência de um Evento de Liquidez Qualificado, conforme descrito no Apêndice VIII do Term sheet, sujeito às condições do Novo Acordo de Acionistas;

(iii) Acionistas (incluindo os titulares dos Bônus de Subscrição) terão direitos de preferência para subscrição de quaisquer novas emissões de ações ou quaisquer outros valores mobiliários conversíveis em ações;

(iv) Nenhuma outra restrição à transferência de ações, além daquelas descritas no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Term Sheet, serão incluídas no Novo Acordo de Acionistas, incluindo, sem limitação, obrigação de conceder a qualquer Acionista um direito de primeira oferta ou direito de recusa;

(v) Ressalvado os direitos de preferência e os direitos associados a determinados pagamentos, observado o disposto no Term Sheet, em especial no seu Apêndice VII-A, não haverá proteções anti-diluição para quaisquer ações, Direitos de Valor Contingente, Bônus de Subscrição ou quaisquer outros direitos de adquirir ações da Constellation Holding, detidos ou a ser emitidos na Data de Fechamento ou após a Data de Fechamento, para qualquer pessoa ou entidade.

9.6 COMPOSIÇÃO DO CONSELHO DE ADMINISTRAÇÃO. O Conselho de Administração da Constellation Holding a partir da Data de Fechamento terá sua composição, forma de eleição, requisitos para investidura e proibições na forma e nas condições estabelecidas no Apêndice VII-B do Term Sheet, aí se incluindo, mas não se limitando:

(i) Na Data de Fechamento: 3 (três) conselheiros designados pelo Grupo *Ad Hoc*; sendo certo que cada membro do Grupo *Ad Hoc* designará separadamente um dos 3 (três) conselheiros; 1 (um) conselheiro designado pelos credores do Novo Financiamento DIP Prioritário; o Sr. Jaap Jan Prins; e 2 (dois) conselheiros residentes em Luxemburgo designados por uma empresa terceira designada pelo Grupo *Ad Hoc*;

(ii) Após a Data de Fechamento, enquanto a LuxCo ou o Trust Cayman for Acionista Classe A: 4 (quatro) conselheiros designados pela maiora dos Acionistas Classe B-1; 1 (um) conselheiro designado pela maioria dos Acionistas Classe B; e 2 (dois) conselheiros residentes em Luxemburgo designados por uma empresa terceira designada pela maiora dos Acionistas Classe B-1;

(iii) Após a Data de Fechamento, quando a LuxCo ou o Trust Cayman não for mais Acionista Classe A: 5 (cinco) conselheiros designados pela maioria dos Acionistas Classe B-1; 1 (um) conselheiro designado pela maioria dos Acionistas Classe B; 2 (dois) conselheiros residentes em Luxemburgo designados por uma empresa terceira designada pela maiora dos Acionistas Classe B-1; e enquanto o comprador das Ações

Classe A da LuxCo e/ou do Trust Cayman detiver Ações Classe A que representem pelo menos 10% do Capital Social da Constellation Holding, 1 (um) conselheiro designado pela maioria dos Acionistas Classe A.

9.6.1 NOMEAÇÃO. Quaisquer candidatos para o Conselho de Administração da Constellation Holding deverão ser aprovados e respeitar os critérios estabelecidos no Novo Acordo de Apoio ao Plano e seus anexos, bem como no Apêndice VII-B do Term Sheet. Cada Acionista concorda em votar para o candidato indicado por cada um dos outros Acionistas para composição do Conselho de Administração da Constellation Holding. O Presidente do Conselho de Administração será nomeado pela maioria dos membros do Conselho de Administração.

9.6.2 VEDAÇÃO. Nenhum candidato será nomeado ou indicado para o Conselho de Administração se a sua qualidade de conselheiro da Constellation Holding proibir a Constellation Holding de participar de licitações para novos contratos.

9.6.3 GOVERNANÇA. A administração da Constellation Holding deverá observar na condução das suas atividades, as melhores práticas de governança corporativa, além de todos os termos, condições, limitações e restrições deste Plano Consolidado, do Novo Acordo de Apoio ao Plano e do Term Sheet.

9.6.4 RESTRIÇÕES À CESSÃO. A partir e após a Data de Fechamento, qualquer cessionário de Ações Classe A ou Direitos de Valor Contingente detidos pela LuxCo (ou pelo Trust Cayman, conforme o caso) deve se tornar parte do Novo Acordo de Acionistas. A efetivação de qualquer transferência de participação societária da LuxCo (ou o Trust Cayman) estará sujeita ao cumprimento dos termos e condições do Novo Acordo de Acionistas.

10 REGRAS ADICIONAIS A SEREM OBSERVADAS PARA A LIQUIDAÇÃO DA DÍVIDA.

10.1 **FORMA DE PAGAMENTO**. Oberservado o Novo Acordo de Apoio ao Plano e seus anexos, bem como o Term Sheet, bem como os Novos Instrumentos de Reestruturação, e exceto para os Credores Trabalhistas Pessoas Físicas detentores de Créditos Sub-judice, que sempre receberão mediante depósito judicial nos autos dos respectivos processos, os valores devidos aos Credores Concursais, serão pagos

mediante (i) transferência direta de recursos ou depósito na conta bancária do respectivo Credor; ou (ii) por ordem de pagamento a ser sacada diretamente no caixa da instituição financeira pelo respectivo Credor, conforme o caso, servindo o comprovante da referida operação financeira como prova da quitação do respectivo pagamento. Sendo certo que, os Credores Quirografários e os Credores de ME/EPP devem, no prazo de 10 (dez) dias contados da Data de Homologação, informar suas respectivas contas bancárias para os fins previstos nesta Cláusula, mediante comunicação por escrito endereçada a qualquer uma das Recuperandas, nos termos da Cláusula 12.3 abaixo, sendo certo que os pagamentos que não forem realizados tempestivamente em razão de os Credores Quirografários e os Credores de ME/EPP não terem informado suas contas bancárias em referido prazo não serão considerados como um evento de descumprimento do Plano Consolidado. Neste caso, a critério das Recuperandas, os pagamentos devidos aos Credores Quirografários e aos Credores de ME/EPP que não tiverem informado suas contas bancárias poderão ser realizados em juízo, às suas expensas, que responderão por quaisquer custos agregados em razão da utilização da via judicial para depósito. Não haverá a incidência de juros, multas, encargos moratórios ou descumprimento deste Plano se os pagamentos não tiverem sido realizados em razão de os Credores Quirografários e os Credores de ME/EPP não terem informado tempestivamente suas contas bancárias.

10.2 MAJORAÇÕES DOS VALORES DOS CRÉDITOS POR DECISÃO JUDICIAL OU ACORDO. Na hipótese de se verificar eventual majoração no valor de qualquer Crédito decorrente de decisão judicial transitada em julgado ou acordo entre as partes, o valor majorado do Crédito será pago na forma prevista neste Plano, a partir do trânsito em julgado da decisão judicial ou da celebração do acordo entre as partes. Neste caso, as regras de pagamento do valor majorado de tais Créditos passarão a ser aplicáveis apenas a partir do referido trânsito em julgado ou da data da celebração do acordo entre as partes.

10.3 QUESTÕES FISCAIS.

10.3.1 As Recuperandas e os Credores Concursais concordam em trabalhar em conjunto para implementar as transações contempladas neste Plano Consolidado,

no Novo Acordo de Apoio ao Plano, no Term Sheet e/ou nos Novos Instrumentos da Reestruturação na forma mais eficiente do ponto de vista fiscal e juridicamente válida e viável (inclusive para fins de preservar quaisquer aspectos fiscais favoráveis atribuíveis à Constellation Holding), desde de que observados este Plano Consolidado, o Novo Acordo de Apoio ao Plano, no Term Sheet e/ou os Novos Instrumentos da Reestruturação.

10.3.2 Observado o disposto no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos, todos os pagamentos realizados por ou em nome da Constellation Holding em relação aos Credores Apoiadores e aos Credores do Novo Financiamento DIP, qualquer outro credor que assim venha a ser qualificado nos Novos Instrumentos de Reestruturação ou outro beneficiário aplicável conforme previsto nos Novos Instrumentos de Reestruturação, incluindo qualquer PIK ou valores de pagamento diferido e os pagamentos de assessores, devem ser realizados de forma integral de modo que a quantia a pagar será acrescida, conforme necessário, para que, após qualquer dedução ou retenção exigida pela legislação aplicável, cada Credor ou beneficiário aplicável receba um montante igual à soma que teria recebido se não houvesse qualquer dedução fiscal ou retenção direto na fonte.

11 EFEITOS DO PLANO CONSOLIDADO.

11.1 **VINCULAÇÃO DO PLANO CONSOLIDADO**. Ressalvado o disposto na Cláusula 11.12 abaixo, a partir da Homologação Judicial do Plano Consolidado, as disposições deste Plano Consolidado vinculam as Recuperandas (sujeito a obtenção de quaisquer aprovações necessárias mencionadas na Cláusula 3.3 acima), seus Acionistas Originais, os Credores Concursais e respectivos Credores Cessionários e sucessores, nos termos do artigo 59 da LRF. A Aprovação do Plano Consolidado, juntamente com a Homologação Judicial do Plano Consolidado, constitui autorização e consentimento vinculante concedido pelos Credores para que as Recuperandas possam, dentro dos limites da lei aplicável, incluindo a LRF, adotar as providências que sejam apropriadas e necessárias para a implementação das medidas previstas neste Plano Consolidado e nos Novos Instrumentos da Reestruturação, inclusive obtenção de medida judicial, extrajudicial ou administrativa (seja de acordo com a

LRF ou no âmbito de qualquer procedimento de natureza principal ou incidental) pendente ou a ser iniciado pelo Grupo Constellation, qualquer dos representantes das Recuperandas ou qualquer representante da Recuperação Judicial em qualquer jurisdição que não seja o Brasil com o propósito de conferir força, validade e efeito ao Plano Consolidado e sua implementação. Para o bem da clareza, os Credores que aprovarem o Plano Consolidado e os Acionistas Originais expressamente declaram que se comprometem a aprovar qualquer outro instrumento de composição em outra jurisdição formalizado pelas Recuperandas, desde que tal instrumento reflita os termos e condições deste Plano Consolidado, do Novo Acordo de Apoio do Plano, do Term Sheet e seus respectivos anexos, observadas a razoabilidade, a boa-fé, bem como as ressalvas e as qualificações constantes do Novo Acordo de Apoio ao Plano e do Term Sheet, com a finalidade de implementar os termos desse Plano Consolidado.

11.2 ADITAMENTOS, ALTERAÇÕES OU MODIFICAÇÕES DO PLANO. Após a Homologação Judicial do Plano Consolidado, aditamentos, alterações ou modificações ao Plano Consolidado podem ser propostos a qualquer tempo pelas Recuperandas, desde que tais aditamentos, alterações ou modificações sejam aceitos pelos Credores Concursais, na forma da LRF. Aditamentos ao Plano, desde que aprovados em conformidade com a LRF, obrigam todos os credores a ele sujeitos, independentemente da expressa concordância destes com aditamentos posteriores.

11.3 NOVAÇÃO. Este Plano Consolidado implica a novação dos Créditos Concursais, que serão pagos na forma estabelecida neste Plano Consolidado. Por força da referida novação, todas as obrigações, covenants, índices financeiros, hipóteses de vencimento antecipado, bem como outras obrigações e garantias referentes aos Créditos Concursais que sejam incompatíveis com as condições deste Plano Consolidado deixarão de ser aplicáveis, sendo integralmente substituídas pelas previsões contidas neste Plano Consolidado, no Novo Acordo de Apoio ao Plano, do Term Sheet e, após a Data de Fechamento, nos Novos Instrumentos de Reestruturação.

11.4 RATIFICAÇÃO DE ATOS E ANUÊNCIA. Ressalvado o disposto na Cláusula 11.12 abaixo, a Aprovação do Plano Consolidado pela Assembleia de Credores, juntamente

com a Homologação Judicial do Plano Consolidado, representará a concordância e ratificação das Recuperandas, dos Joint Provisional Liquidators e dos Credores Concursais de todos os atos praticados e obrigações contraídas (que estejam em conformidade com o Novo Acordo de Apoio ao Plano, o Term Sheet e o Plano Consolidado) exclusivamente para integral implementação e consumação deste Plano Consolidado e da Recuperação Judicial, aí incluindo a celebração do Novo Acordo de Apoio ao Plano, do Term Sheet e dos Novos Instrumentos da Reestruturação e o ajuizamento de Processo Auxiliar no Exterior, cujos atos ficam expressamente autorizados, validados e ratificados para todos os fins de direito, ressalvando-se que em relação às Recuperandas incorporadas sob a Lei das Ilhas Virgens Britânicas e Ilhas Cayman, sujeitas a Processo Auxiliar no Exterior, os atos das Recuperandas, agindo por meio de seus Joint Provisional Liquidators ou de qualquer outra forma, possam eventualmente requerer a aprovação das Cortes das Ilhas Virgens Britânicas ou dos Tribunais das Ilhas Cayman (conforme aplicável) até que se encerre o Processo Auxiliar no Exterior. Os Credores Concursais têm plena ciência de que os valores, prazos, termos e condições de satisfação de seus Créditos Concursais são alterados por este Plano Consolidado. Os Credores Concursais, no exercício de sua autonomia da vontade, declaram que concordam expressamente com as referidas alterações, nos termos previstos neste Plano Consolidado, abrindo mão do recebimento de quaisquer valores adicionais, ainda que previstos nos instrumentos que deram origem aos Créditos Concursais ou em decisão judicial, administrativa ou arbitral, por estarem convencidos de que este Plano Consolidado reflete condições econômico-financeiras que lhes são mais favoráveis do que a manutenção das condições originais de pagamento de seus Créditos Concursais.

11.4.1 A inclusão neste Plano Consolidado, no Novo Acordo de Apoio ao Plano e no Term Sheet dos termos e condições para reestruturação dos Créditos ALB Não Sujeitos, dos Créditos Bradesco Não Sujeitos, Créditos Novos Bonds 2024 Participantes Não Sujeitos e, se contratado, do Novo Financiamento DIP Prioritário, não implica abdicação, desistência, renúncia, *waiver*, aceitação ou qualquer outra forma de desistência por parte dos respectivos Credores com relação a extraconcursalidade de referidos Créditos Não Sujeitos à Recuperação Judicial, os

quais permanecem com todas as prerrogativas, direitos, termos e condições aplicáveis.

11.5 PODERES DO GRUPO CONSTELLATION PARA IMPLEMENTAR O PLANO CONSOLIDADO. Após a Homologação Judicial do Plano Consolidado, o Grupo Constellation deverá (e, por conseguinte, está autorizado pelos Credores Concursais) adotar todas as medidas necessárias para (i) se necessário, submeter a Aprovação do Plano Consolidado a Processo Auxiliar no Exterior, com o objetivo de conferir efeitos ao Plano Consolidado em território norte-americano e nas Ilhas Virgens Britânicas ou nas Ilhas Cayman, nos termos da legislação aplicável, (ii) iniciar e/ou dar andamento a outros procedimentos judiciais, extrajudiciais ou administrativos, sejam de insolvência ou de outra natureza, em outras jurisdições além da República Federativa do Brasil, incluindo o território norte-americano e as Ilhas Virgens Britânicas, conforme necessário, (iii) pagar os custos dos Joint Provisional Liquidators, bem como os custos e despesas relacionados à reestruturação conforme previsto no Novo Acordo de Apoio ao Plano e no Term Sheet, (iv) requerer o levantamento de protestos e/ou de cadastros de restrição de crédito em desfavor das Recuperandas, relacionados ao não pagamento dos Créditos Concursais em suas condições originais, bem como (v) tomar todas as medidas necessárias, de acordo com a legislação brasileira e/ou estrangeira aplicável, para cumprir o Plano Consolidado, o Novo Acordo de Apoio ao Plano e o Term Sheet. O Processo Auxiliar no Exterior não poderá alterar os termos e as condições deste Plano Consolidado.

11.6 EXTINÇÃO DE AÇÕES. Ressalvado o disposto na Cláusula 11.12 abaixo, os Credores, a partir da Homologação Judicial do Plano Consolidado, não mais poderão com relação aos seus respectivos Créditos Concursais (i) exceto pelo quanto disposto na LRF, ajuizar e/ou dar continuidade a quaisquer medidas, nesta jurisdição ou em qualquer outra, relacionadas a toda e qualquer disputa, pretensão, causa de pedir, sejam elas previamente identificadas ou não, conhecidas ou não, incluindo quaisquer pretensões atribuídas às Recuperandas que os Credores possam ter (seja de forma individualizada ou coletiva) contra as Recuperandas ou os Joint Provisional Liquidators; (ii) executar contra as Recuperandas qualquer sentença, decisão judicial ou administrativa ou sentença arbitral relacionada a qualquer Crédito Concursal; (iii) continuar adotando quaisquer medidas e/ou ações

adversas, em quaisquer jurisdições, notadamente aquelas em andamento perante a jurisdição dos Estados Unidos da América, Ilhas Virgens Britânicas e Ilhas Cayman, contra as Recuperandas ou os Joint Provisional Liquidators; (iv) penhorar quaisquer bens das Recuperandas para satisfazer seus Créditos Concursais ou praticar qualquer outro ato constritivo contra tais bens; (v) criar, aperfeiçoar ou executar qualquer garantia real sobre bens e direitos das Recuperandas para assegurar o pagamento de seus Créditos Concursais; (vi) reclamar qualquer direito de compensação contra as Recuperandas em relação a qualquer Crédito Concursal; (vii) buscar a satisfação de seus Créditos Concursais por quaisquer outros meios; e (viii) manter protestos ou cadastros de restrição de crédito em desfavor das Recuperandas, desde que relacionados ao não pagamento dos Créditos Concursais em suas condições originais. Todas as eventuais execuções judiciais em curso contra as Recuperandas relativas aos Créditos Concursais serão extintas e as penhoras e constrições existentes serão liberadas.

11.7 QUITAÇÃO. Ressalvado o disposto na Cláusula 11.12 abaixo, os pagamentos realizados na forma estabelecida neste Plano Consolidado e/ou que já tenham sido realizados na forma do Plano Original acarretarão, quando realizados em sua totalidade (cumprimento integral deste Plano Consolidado e/ou do Plano Original), de forma automática e independentemente de qualquer formalidade adicional, a quitação plena, irrevogável e irretratável, de todos os Créditos Concursais de qualquer tipo e natureza contra as Recuperandas e seus controladores e garantidores, inclusive juros, correção monetária, penalidades, multas e indenizações. Com a ocorrência da quitação, os Credores Concursais serão considerados como tendo quitado, liberado e/ou renunciado integralmente a todos e quaisquer Créditos Concursais, e não mais poderão reclamá-los, contra as Recuperandas, controladas, subsidiárias, afiliadas e coligadas e outras sociedades pertencentes ao mesmo grupo societário e econômico, e seus diretores, conselheiros, acionistas, sócios, agentes, Joint Provisional Liquidators, funcionários, representantes, fiadores, avalistas, garantidores, sucessores e Credores Sub-Rogatários e Credores Cessionários a qualquer título.

11.8 COMPENSAÇÃO. Os Credores Concursais não poderão, sob qualquer hipótese, promover a compensação, após a Data do Pedido, dos Créditos Concursais

de que sejam titulares com eventuais créditos detidos pelas Recuperandas contra eles, observado o disposto na Cláusula 11.4.1.

11.9 ISENÇÃO DE RESPONSABILIDADE E RENÚNCIA DAS PARTES ISENTAS. A partir da Homologação do Plano Consolidado, e sujeito à ocorrência da Data de Fechamento em relação aos Credores Apoiadores, as Partes expressamente reconhecem e isentam as Partes Isentas, as quais tenham agido em conformidade com as leis e normas aplicáveis, de toda e qualquer responsabilidade pelos atos praticados e obrigações relacionadas ou em conexão com a Recuperação Judicial e/ou o Processo Auxiliar no Exterior, incluindo a preparação da Recuperação Judicial e/ou do Processo Auxiliar no Exterior e a negociação e documentação do Plano Consolidado (incluindo a preparação dos Novos Instrumentos de Reestruturação, a negociação e documentação do Plano Consolidado e, em relação aos Joint Provisional Liquidators, qualquer assunto decorrente ou incidental ao Processo Auxiliar no Exterior), ocorridos antes da Data de Fechamento, concedendo às Partes Isentas quitação ampla, rasa, geral, irrevogável e irretratável de todos os direitos e pretensões materiais ou morais porventura decorrentes dos referidos atos a qualquer título na medida em que tais liberações sejam permitidas pela lei aplicável, com exceção dos seguintes ("Atos Não Isentos"): (i) atos cometidos por negligência grave, fraude ou dolo, (ii) a execução do Plano Consolidado, do Novo Acordo de Apoio ao Plano, do Term Sheet e seus respectivos anexos e dos Novos Instrumentos de Reestruturação, que permanecem totalmente exigíveis contra todas as partes aplicáveis, de acordo com seus respectivos termos, (iii) quaisquer falsas representações ou omissões relevantes com relação a informações sobre quaisquer Partes ou suas afiliadas que sejam relevantes para a Recuperação Judicial, aos documentos referentes ao Trust Cayman e quaisquer documentos neles referenciados ou incluídos, e, por fim, aos Novos Instrumentos Documentos de Reestruturação e (iv) qualquer violação, sem limitação, do Plano Consolidado, do Novo Acordo de Apoio ao Plano, aos documentos referentes ao Trust Cayman, do Term Sheet e seus respectivos anexos e dos Novos Instrumentos de Reestruturação, de quaisquer protocolos feitos em conexão com Recuperação Judicial e quaisquer outros documentos relacionados ao Plano Consolidado, ao Novo Acordo de Apoio ao Plano, aos documentos referentes ao Trust Cayman, ao Term Sheet e seus respectivos anexos e aos Novos

Instrumentos de Reestruturação, incluindo as declarações, garantias e avenças, independentemente de quando tal violação for descoberta. A partir da Homologação do Plano Consolidado, e sujeito à ocorrência da Data de Fechamento em relação aos Credores Apoiadores, as Partes expressa e irrevogavelmente renunciam, na medida do permitido pela lei aplicável, a quaisquer reivindicações, ações ou direitos de ajuizar, promover ou reivindicar, judicial ou extrajudicialmente, a qualquer título e sem reservas ou ressalvas, a compensação por danos e/ou outras ações ou medidas contra as Partes Isentas, conhecidas ou desconhecidas, em relação aos atos praticados e obrigações assumidas pelas Partes Isentas no âmbito da Recuperação Judicial e quaisquer documentos relacionados ao Plano Consolidado, ao Novo Acordo de Apoio ao Plano, aos documentos referentes ao Trust Cayman, ao Term Sheet e seus respectivos anexos e aos Novos Instrumentos de Reestruturação, desde que a sua atuação tenha se dado dentro dos limites das leis aplicáveis, incluindo qualquer questão decorrente ou incidental ao Processo Auxiliar no Exterior e em relação aos Joint Provisional Liquidators (com exceção dos Atos Não Isentos)A Aprovação do Plano Consolidado igualmente representa a concordância dos Credores Concursais com o pagamento dos custos dos Joint Provisional Liquidators.

11.10 FORMALIZAÇÃO DE DOCUMENTOS E OUTRAS PROVIDÊNCIAS. As Recuperandas obrigam-se a realizar todos os atos e firmar todos os contratos e outros documentos que, na forma e na substância, sejam necessários ou adequados ao cumprimento e implementação deste Plano Consolidado e obrigações correlatas.

11.11 CESSÃO E TRANSFERÊNCIA DE CRÉDITOS CONCURSAIS.

11.11.1 Nenhum dos Credores Apoiadores poderá, até a Data de Fechamento, ceder seus Créditos Concursais para terceiros, exceto nos termos previstos no Novo Acordo de Apoio ao Plano e no Term Sheet.

11.11.2 Este Plano Consolidado, o Novo Acordo de Apoio ao Plano e/ou o Term Sheet não deve, de forma alguma, ser interpretado no sentido de impedir que os Credores Apoiadores adquiram Créditos Concursais adicionais, desde que qualquer Credor Apoiador que adquira Créditos Concursais até a Data de Fechamento o faça nos termos das disposições do Novo Acordo de Apoio ao Plano e do Term Sheet.

11.11.3 Os Credores Concursais poderão ceder ou transferir os seus Créditos Concursais, desde que o façam sob as seguintes condições: (i) a cessão seja notificada às Recuperandas com antecedência mínima de 10 Dias Úteis antes das datas de pagamento; e (ii) a notificação seja acompanhada da comprovação de que os Credores Cessionários receberam e confirmaram o recebimento e aceitação deste Plano Consolidado, reconhecendo que o Crédito Concursal cedido, seja por força de lei ou adesão voluntária, está sujeito aos efeitos deste Plano Consolidado, observado, no que se refere aos Credores Apoiadores, as regras definidas no Novo Acordo de Apoio ao Plano, no Term Sheet e seus respectivos anexos.

11.11.4 As Recuperandas não têm obrigação de emitir qualquer documento ou divulgar publicamente quaisquer informações com a finalidade de permitir que um Credor Concursal transfira quaisquer de seus Créditos Concursais.

11.11.5 Os termos de eventuais acordos de confidencialidade firmados pelas Recuperandas com terceiros permanecerão válidos e eficazes nos seus termos originais, não substituindo este Plano Consolidado, o Novo Acordo de Apoio ao Plano ou o Term Sheet quaisquer direitos ou obrigações decorrentes de tais acordos de confidencialidade.

11.11.6 Qualquer transferência em violação às presentes disposições e ao Novo Acordo de Apoio ao Plano e ao Term Sheet será considerada nula *ab initio*.

11.12 MARCOS SUBSEQUENTES. O Novo Acordo de Apoio ao Plano prevê o atingimento dos Marcos Subsequentes. O prazo para atingimento dos Marcos Subsequentes poderá ser prorrogado na forma da Seção 12 do Novo Acordo de Apoio ao Plano. Não obstante o disposto neste Plano Consolidado, especialmente as Cláusulas 11.1, 11.3, 11.4, 11.6, 11.7 e 11.9 acima, em caso de não atingimento de qualquer dos Marcos Subsequentes, após extensões caso aplicáveis, aplicar-se-ão as consequências estabelecidas no Novo Acordo de Apoio ao Plano, ressalvadas a eficácia e validade dos atos praticados regularmente até então, nos termos deste Plano Consolidado e/ou do Plano Original, conforme aplicável.

12 DISPOSIÇÕES GERAIS.

12.1 RETORNO AO *STATUS QUO ANTE*. Na hipótese de descumprimento deste Plano Consolidado que provoque a convolação da Recuperação Judicial em falência, os Credores terão reconstituídos seus direitos e garantias nas condições originalmente contratadas, ressalvados os atos validamente praticados no âmbito desta Recuperação Judicial, o que inclui eventuais pagamentos realizados, a emissão de títulos de dívida e garantias outorgadas no âmbito do Plano Original e/ou do Plano Consolidado, bem como o Novo Financiamento DIP Prioritário.

12.2 ENCERRAMENTO DA RECUPERAÇÃO JUDICIAL. Em atenção ao artigo 61 da LRF, tendo em vista que já transcorreram 2 (dois) anos da homologação judicial do Plano Original, o período suplementar de supervisão desta Recuperação Judicial deverá ser encerrado após verificada e informada nos autos a Data de Fechamento.

12.3 COMUNICAÇÕES. Todas as notificações, requerimentos, pedidos e outras comunicações às Recuperandas, requeridas ou permitidas por este Plano Consolidado, para serem eficazes, devem ser feitas por escrito e serão consideradas realizadas quando (i) enviadas por correspondência registrada, com aviso de recebimento, ou por courier, e efetivamente entregues ou (ii) enviadas por e-mail ou outros meios, quando efetivamente entregues e confirmadas. Todas as comunicações devem ser endereçadas da seguinte forma, exceto se de outra forma expressamente prevista neste Plano Consolidado, ou, ainda, de outra forma que venha a ser informada pelo Grupo Constellation:

GALDINO & COELHO ADVOGADOS
Rua João Líra, 144, Leblon
Rio de Janeiro, RJ
CEP: 22430-210
A/C: Flavio Galdino
Telefone: +55 21 3195-0240
E-mail: constellation@gc.com.br

12.4 ENCARGOS FINANCEIROS. Salvo nos casos expressamente previstos no Plano Original e/ou neste Plano Consolidado, não incidirão juros e nem correção monetária sobre o valor dos Créditos Concursais.

12.5 CRÉDITOS EM MOEDA ESTRANGEIRA. Créditos denominados em moeda estrangeira serão mantidos na moeda original para todos os fins de direito, em conformidade com o disposto no artigo 50, § 2º, da LRF. Para os fins de apuração de valores limites e quóruns previstos neste Plano Consolidado, os Créditos Concursais denominados em moeda estrangeira serão convertidos em reais com base na cotação de fechamento da taxa de venda de câmbio de Reais, disponível no SISBACEN – Sistema de Informações do Banco Central do Brasil, transação PTAX-800 na Data da Homologação, salvo disposto de forma diversa neste Plano Consolidado, no Novo Acordo de Apoio ao Plano ou no Term Sheet.

12.6 CRÉDITOS NÃO SUJEITOS À RECUPERAÇÃO JUDICIAL. Os Créditos Não Sujeitos à Recuperação Judicial que vierem a ser pagos nas condições de pagamento previstas neste Plano Consolidado e/ou nos Apêndices do Term Sheet mantêm, para todos os fins e direitos, sua natureza extraconcursal.

12.7 DIVISIBILIDADE DAS PREVISÕES DO PLANO CONSOLIDADO. Na hipótese de qualquer termo ou disposição do Plano Consolidado ser considerada inválida, nula ou ineficaz pelo Juízo da Recuperação, o restante dos termos e disposições do Plano Consolidado devem permanecer válidos e eficazes, salvo se, tal invalidade parcial do Plano Consolidado comprometer a capacidade de seu cumprimento.

12.8 ATOS E FATOS CONSUMADOS DECORRENTES DO PLANO ORIGINAL. As Recuperandas e os Credores Concursais reconhecem que o Plano Original gerou atos e fatos consumados, cujas cláusulas pertinentes não foram reproduzidas neste Plano Consolidado, o que não afeta sua validade e eficácia.

12.9 LEI APLICÁVEL. Os direitos, deveres e obrigações decorrentes deste Plano Consolidado deverão ser regidos, interpretados e executados de acordo com as leis vigentes na República Federativa do Brasil, respeitadas ainda as leis aplicáveis aos Créditos, ao Novo Acordo de Apoio ao Plano, ao Term Sheet e aos Novos Instrumentos de Reestruturação.

12.10 ELEIÇÃO DE FORO. Todas as controvérsias ou disputas que surgirem ou estiverem relacionadas a este Plano Consolidado e disciplinadas pela LRF serão resolvidas pelo Juízo da Recuperação. Controvérsias ou disputas que surgirem ou

estiverem relacionadas ao Novo Acordo de Apoio ao Plano, ao Term Sheet e aos Novos Instrumentos de Reestruturação serão dirimidas nos termos estabelecidos nos respectivos instrumentos.

Rio de Janeiro, 24 de março de 2022.

(Assinaturas na página seguinte)

RJ Plan Amendment – Certified Translation

LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
Sworn Public Translator

NT67164_001
Enrolled in the Trade Board of the State of São Paulo under number 1879, on 06/14/2016, named for the English and Portuguese languages. Page: 1

I, Lucas Livingstone Felizola Soares de Andrade, Sworn Public Translator, attest that I was presented with an original document in Portuguese language to be translated to the English language, which I perform in compliance with my duty, as follows://
//
Joint Judicial Reorganization Plan of the Constellation Group Companies Amended and Restated on March 24, 2022

Serviços de Petróleo Constellation S.A. – in Judicial Reorganization, a closely held corporation, enrolled with the CNPJ/ME under No. 30.521.090/0001-27, headquartered at Av. Presidente Antônio Carlos, n. 51, 3º, 5º, 6º e 7º andares, Centro, Rio de Janeiro, State of Rio de Janeiro, CEP (ZIP Code) 20020-010 (“Constellation”); Serviços de Petróleo Constellation Participações S.A. – in Judicial Reorganization, a closely held corporation, enrolled with CNPJ/ME under No. 12.045.924/0001-93, headquartered at Av. Presidente Antônio Carlos, No. 51, sala 601, 6th floor, Centro, Rio de Janeiro, State of Rio de Janeiro, ZIP CODE 20020-010 ("Constellation Par"); Manisa Serviços de Petróleo Ltda.- in Judicial Recovery, a limited liability company, enrolled with the CNPJ/ME under No. 11.801.519/0001-95, with its principal place of business at Rua do Engenheiro, No. 736, quadra I, lotes 02, 03, 04, 05, 08, 09 and 10, Rio das Ostras, State of Rio de Janeiro, Zip Code 28.890-000 ("Manisa"); Tarsus Serviços de Petróleo Ltda. - in Judicial Recovery, a limited liability company, enrolled in the National Register of Legal Entities under CNPJ/ME No. 11.801.960/0001-77, headquartered at Rua do Engenheiro, 736, quadra I, lotes 02, 03, 04, 05, 08, 09 and 10, Rio das Ostras, State of Rio de Janeiro, Zip Code 28.890-000 ("Tarsus"); Alpha Star Equities Ltd. (in Provisional Liquidation), a company headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Alpha Star"); Amaralina Star Ltd. headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Amaralina"); Arazi S.À.R.L. Wickhams at Avenue de la Gare, 8-10, Zip Code 1616, Luxembourg ("Arazi"); Brava Star Ltd. headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Brava"); Constellation Oil Services Holding S.A. a company with registered office at Avenue de la Gare, n. 8-10, Luxembourg, registered under n. B163424 ("Constellation Holding"); Constellation Overseas Ltd. (in Provisional Liquidation), a company registered with the CNPJ/ME under No. 12.981.793/0001-56, headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Constellation Overseas"); Constellation Services Ltd. (in Provisional Liquidation), a company headquartered at Tortola Pier Park, Building 1, 2º Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands, enrolled with the CNPJ/ME under No. 26.496.540/0001-00 ("Constellation Services"); Gold Star Equities Ltd. (in Provisional Liquidation), a company headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Gold Star"); Lancaster Projects Corp. a company headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams

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Cay I, Road Town, Tortola, British Virgin Islands ("Lancaster"); Laguna Star Ltd.(in Provisional Liquidation), a company having its registered office at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Laguna"); Lone Star Offshore Ltd. (in Provisional Liquidation), a company headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Lone Star"); Snover International Inc. a company headquartered at Tortola Pier Park, Building 1, 2nd Floor, Wickhams Cay I, Road Town, Tortola, British Virgin Islands ("Snover"); and Star International Drilling Limited (In Provisional Liquidation), company registered with the CNPJ/ME under No. 05.722.506/0001-28, headquartered at Clifton House, 75 Fort Street, George Town, P.O. Box 1350, Cayman Islands ("Star Drilling" and together with Constellation, Constellation Par, Manisa, Tarsus, Alpha Star, Amaralina, Arazi, Brava Star, Constellation Holding, Constellation Overseas, Constellation Services, Gold Star, Lancaster, Laguna, Lone Star, Snover, by themselves or by their Joint Provisional Liquidators, as defined below, "Constellation Group" or "Companies under reorganization") make available, in the records of the Judicial Recovery (as defined below), pending before the Judicial Reorganization Court (as defined below), this Restated Plan (as defined below), pursuant to article 53 of the LRF (as defined below), whose terms and conditions are regulated according to the clauses below.

1 Definitions and Rules of Interpretation.

1.1 Definitions. The terms and expressions used in capital letters, whenever mentioned in this Restated Plan, shall have the meanings attributed to them in this Clause 0. Such definite terms shall be used, as appropriate, in their singular or plural form, in the male or female gender, without thereby losing the meaning attributed to them.

1.1.1 "Shareholders": means, together, the Original Shareholders and the New Shareholders.

1.1.2 "Class A Shareholders" or "Legacy Shareholders": are LuxCo and CIPEF, who, until the Closing Date, hold all of the issued shares of Constellation Holding and, after the Closing Date, will hold Class A Shares of Constellation Holding, provided that the terms of the New Plan Support Agreement are observed and the requirements set forth in the Trust Documents, as defined in the New Plan Support Agreement and its exhibits and in the Term Sheet, are met, with Trust Cayman remaining the holder of the Class A Shares of Constellation Holding with respect to LuxCo until such requirements are met.

1.1.3 "Class B Shareholders": means, in aggregate, the holders of Class B-1 Shares and the holders of Class B-2 Shares of Constellation Holding.

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1.1.4 "Class A Shares": means the Class A shares to be issued by Constellation Holding, having the rights granted to such shares under the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

1.1.5 "Class B Shares": means the Class B-1 Shares and the Class B-2 Shares, considered together.

1.1.6 "Class B-1 Shares": means the Class B-1 shares to be issued by Constellation Holding, having the rights granted to such shares under the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

1.1.7 "Class B-2 Shares": means the Class B-2 shares to be issued by Constellation Holding, having the rights granted to such shares under the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

1.1.8 "Class C Shares": means the Class C-1 Shares, the Class C-2 Shares, the Class C-3 Shares and the Class C-4 Shares, considered together.

1.1.9 "Class C-1 Shares": means the Class C-1 shares to be issued by Constellation Holding, having the rights granted to such shares in the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

1.1.10 "Class C-2 Shares": means the Class C-2 shares to be issued by Constellation Holding, having the rights granted to such shares in the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

1.1.11 "Class C-3 Shares": means the Class C-3 shares to be issued by Constellation Holding, having the rights granted to such shares under the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

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1.1.12 "Class C-4 Shares": means the Class C-4 shares to be issued by Constellation Holding, having the rights granted to such shares under the New Shareholders Agreement and the other corporate documents of Constellation Holding as provided in the New Plan Support Agreement, the Term Sheet and its related annexes.

1.1.13 "Original Plan Support Agreement": means the Second Amended and Restated Plan Support Agreement and Lock-up Agreement and its attachments thereto, entered into on June 28, 2019 by the Constellation Group, its Legacy Shareholders and certain Creditors, which constituted Annex III to the Original Plan.

1.1.14 "Bradesco Reimbursement Agreements": are (i) theReimbursement Agreement, dated as of May 25, 2016, as amended, entered into between Bradesco, as issuer of the letter of credit, and Constellation Overseas, as applicant of the letter of credit; and (ii) the Reimbursement Agreement, dated August 7, 2015, as amended, entered into between Bradesco, as issuer of the letter of credit, and Constellation Overseas, as applicant of the letter of credit, which, by virtue of of the Original Plan Support Agreement, were amended and replaced by the Amendments and Consolidations of the Reimbursement Agreements (Amended and Restated Reimbursement Agreements), dated December 18, 2019, signed between Bradesco, as issuer of letters of credit, and Constellation Overseas, as applicant for letters of credit, which will be amended and replaced in the form of the New Plan Support Agreement and Term Sheet.

1.1.15 “Judicial Administrator”: It is the Law Firm Marcello Macêdo Advogados, represented by Mr. Marcello Macêdo, lawyer enrolled with OAB/RJ under No. 65,541, as appointed by the Court of Reorganization, under the terms of Chapter II, Section III of the LRF, or whoever may replace him from time to time.

1.1.16 "Disposal of Assets": means the operations of disposal of Assets, whether or not isolated productive units, through direct sale, in the form of article 66 of the LRF and/or in accordance with the rules of competitive process contained in article 60, main section and sole paragraph, in article 142 and in the other applicable provisions of the LRF and in article 133, §1 of the National Tax Code, pursuant to the terms of Clause 5 below. The rules of competitive processes, including the description of the specific Assets that will form the isolated production units, will be established in the respective notices, being certain that any Assets granted in guarantee to any creditors without prior written authorization from the respective creditor beneficiary of the guarantee in question, pursuant to §1 of article 50 of the LRF. The assets and rights that will comprise the eventual isolated production units will be sold free of any debts, contingencies and

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LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
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obligations of the Constellation Group and its subsidiaries or related parties, including, without limitation, those of a tax, environmental and labor nature.

1.1.17 "Alpha Star": has the meaning assigned in the recitals.

1.1.18 "Amaralina": has the meaning assigned in the recitals.

1.1.19 "Amaralina Star Term Loans": has the meaning assigned in the Amaralina and Laguna Loan Agreement.

1.1.20 “ANP”: the Brazilian National Agency for Petroleum, Natural Gas and Biofuels.

1.1.21 "Approval of the Restated Plan": is the approval of the Restated Plan at the Creditors Meeting. For the purposes of this Restated Plan, Approval of the Restated Plan is deemed to occur on the date of the Creditors Meeting that votes on and approves the Restated Plan, even if the Restated Plan is not approved by all Classes of Creditors on this occasion, provided that it is subsequently approved in court pursuant to articles 45 or 58 of the LRF, as applicable.

1.1.22 "Arazi": has the meaning assigned in the recitals.

1.1.23 "Creditors Meeting": means any General Meeting of Creditors held pursuant to Chapter II, Section IV, of the LRF.

1.1.24 “Asset” or “Assets”: means all real or personal property and the rights that comprise the current assets of the Debtors, as defined in the Corporation Law, including, but not limited to, the drilling units owned by the Debtors and equity interests in other companies.

1.1.25 "2019 Bonds": are the senior unsecured notes (bonds) due 2019 issued by Constellation Holding at a rate of 6.25% in the form of the Indenture dated November 9, 2012, as amended from time to time, which, by virtue of the Original Plan and the Original Plan Support Agreement, were replaced by the 2030 Bonds.

1.1.26 "2024 Bonds" are the senior secured notes (bonds) due 2024 issued by Constellation Holding, in the form of the Indenture dated July 27, 2017, entered into among Constellation Holding, as issuer, Constellation Overseas, Lone Star, Gold Star, Olinda, Snover and Star Drilling, as guarantors, Arazi as partial guarantor, at a rate of 9.00% cash and 0.50% PIK, which,

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NT67164_001
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by virtue of the Original Plan and the Original Plan Support Agreement, were replaced by the New 2024 Bonds.

1.1.27 "2030 Bonds ": means the senior credit notes (6.25% PIK/Cash Senior Notes) due 2030 issued by Constellation Holding at the rate of 6.25% in the form of the Indenture dated December 18, 2019, as amended from time to time, which will be restructured and replaced in the form of Clause 8.3.1 below.

1.1.28 "Subscription Warrants ": shall mean the cashless warrants to be issued by Constellation Holding pursuant to the New Plan Support Agreement, the Term Sheet and the annexes thereto, provided for in Clause 8.2.1.3 below.

1.1.29 “Bradesco”: Banco Bradesco S.A., Grand Cayman branch.

1.1.30 "Brava Star": has the meaning assigned in the recitals.

1.1.31 "Adjusted Free Cash": has the meaning stipulated in the New Plan Support Agreement and its annexes, as well as in Appendix IX of the Term Sheet.

1.1.32 "Free Cash": has the meaning stipulated in the New Plan Support Agreement and its annexes, as well as in Appendix IX of the Term Sheet.

1.1.33 "Perennial Letter of Credit": means the new letter of credit to be issued by Bradesco, pursuant to the terms of the New Plan Support Agreement and its Annexes, as well as at Appendix I-B of the Term Sheet, in the total amount of $30.200,000.00, in guarantee and for the benefit of the agent of the ALB Guaranteed LC Loan Agreement, replacing the Bradesco Letters of Credit. The Perennial Letter of Credit will be initially valid for one (1) year from the Closing Date, but will be automatically renewed annually on the anniversary date. The validity of the Perennial Letter of Credit will be automatically extended if the maturity of the ALB Guaranteed LC Loan Agreement is also extended and will be automatically discharged if the ALB Guaranteed LC Loan Agreement is paid in full. The Perennial Letter of Credit will be enforceable in the cases provided for in the New Plan Support Agreement and its annexes, as well as in Appendix I-B of the Term Sheet.

1.1.34 "Bradesco Letters of Credit": means (i) the letter of credit issued by Bradesco on behalf and order of Constellation Overseas for the benefit of Laguna in the amount of US$ 24,000.000.00 and (ii) the letter of credit issued by Bradesco for the account and order of Constellation Overseas

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LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
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for the benefit of Brava Star in the amount of US$ 6,200,000.00, renewed under the Original Plan and the Original Plan Support Agreement, which guarantee US$ 30.200,000.00 of the Subject ALB Credits ("LC Secured ALB Credits") and will be replaced by the Perennial Letter of Credit, on the Closing Date, for the benefit of the creditors holding the LC Secured ALB Credits, as provided in the New Plan Support Agreement and its annexes, as well as in Appendix I-B of the Term Sheet.

1.1.35 “CIPEF”: the minority shareholders' direct or indirect investment funds of the Debtors, whose investment advisor is Capital International Inc.

1.1.36 “Classes”: Categories in which the Debtors' Bankruptcy Credits are classified according to the nature of the Bankruptcy Credits, as provided for in Article 41 of the LRF.

1.1.37 “CNPJ/ME”: means the Corporate Taxpayer Registry of the Ministry of Economy.

1.1.38 "Civil Code" means Law No. 10,406 of January 10, 2002, as amended.

1.1.39 "National Tax Code": means Law n. 5.172, of October 25, 1966, as amended.

1.1.40 "Constellation Holding": has the meaning assigned in the recitals.

1.1.41 "Constellation Overseas": has the meaning assigned in the recitals.

1.1.42 "Constellation Par": has the meaning assigned in the recitals.

1.1.43 "Constellation Services": has the meaning assigned in the recitals.

1.1.44 "Reserve Accounts": the debt service reserve accounts, which serve as collateral for ALB Credits.

1.1.45 "ALB Secured LC Loan Agreement": means the loan agreement to be entered into between Laguna, Brava and the ALB Creditors, as a result of the New Plan Support Agreement and its annexes, as well as Appendix I-B of the Term Sheet and this Restated Plan, which will intrument the ALB Secured LC Credit secured by the Perennial Letter of Credit.

1.1.46 “Amaralina and Laguna Original Loan Agreement”: means the Senior Syndicated Credit Facility Agreement, entered into on March 27, 2012, between Amaralina and Laguna, as

LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
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borrowers, certain banks, as creditors, and administrative and collateral agents, as amended from time to time, which, by virtue of the Original Plan and the Original Plan Support Agreement, was amended by the Amaralina and Laguna Loan Agreement.

1.1.47 "Amaralina and Laguna Loan Agreement" means the Second Amended and Restated Credit Agreement, entered into as of December 18, 2019, among Amaralina and Laguna, as borrowers, certain banks, as lenders, and administrative and collateral agents, which instrumentalizes the payment terms and conditions agreed to in the Original Plan and the Original Plan Support Agreement for the A/L Secured Credits and the A/L Unsecured Credits.

1.1.48 "Bradesco Loan Agreement" means the Amended And Restated Credit Agreement entered into on December 18, 2019, between Constellation Overseas, as borrower, and Bradesco, as lender, which instrumentalizes the payment terms and conditions agreed to in the Original Plan and the Original Plan Support Agreement for the Subject Bradesco Credits.

1.1.49 "Non-Subject Bradesco Loan Agreement": means the Loan Agreement(Credit Agreement) entered into on December 18, 2019, between Constellation Overseas, as borrower, and Bradesco, as lender, which instrumentalizes the terms and conditions of payment of the loan in the historical amount of $10.000,000.00, granted, pursuant to the Original Plan and the Original Support Agreement, after the Petition Date.

1.1.50 "Original Brava Loan Agreement": means the Senior Syndicate Credit Facility Agreement entered into on November 21, 2014, by Brava Star, as borrower, certain banks, as lenders, and administrative and collateral agents, as amended from time to time, which, by virtue of the Original Plan and the Original Plan Support Agreement, was amended by the Brava Loan Agreement.

1.1.51 "Brava Loan Agreement" means the Second Amended and Restated Credit Agreement entered into on December 18, 2019, among Brava Star, as borrower, certain banks, as lenders, and administrative and collateral agents, which instrumentalizes the payment terms and conditions agreed to in the Original Plan and the Original Plan Support Agreement for the Subject Brava Credits and the Non-Subject Brava Credits.

1.1.52 "ALB Restructured Loan Agreement" means the loan agreement to be entered into between Amaralina, Laguna and Brava, as borrowers, certain banks, as lenders, and administrative and collateral agents, replacing the Brava Loan Agreement and the Amaralina and Laguna Loan Agreement, which will instrument the terms and conditions of payment agreed to in this Restated

Plan, in the New Plan Support Agreement and its annexes, as well as in Appendix I-A of the Term Sheet, for the ALB Credits, with the exception of the LC Secured ALB Credits.

1.1.53 "Original Bradesco Loan Facility Agreements": are the Loan Facility Agreements entered into on May 9, 2014 and January 30, 2015, by Constellation Overseas as borrower and Bradesco as lender, as amended from time to time, which, by virtue of the Original Plan and the Original Plan Support Agreement, were amended by the Bradesco Loan Facility Agreement.

1.1.54 "Credits": are the credits and obligations (including obligations to do) held by the Creditors against the Companies under Reorganization, whether overdue or falling due, materialized or contingent, liquidated or unliquidated, object or not of a judicial dispute, arbitration procedure or administrative procedure, initiated or no, and whether or not they are subject to the effects of this Restated Plan.

1.1.55 "A/L Credits": are the Subject A/L Credits and Non-Subject A/L Credits, considered together.

1.1.56 "Non-Subject A/L Credits": means the loan in the historical amount of $27,202.963.71, maturing on November 9, 2023, granted by certain banks to Amaralina and Laguna, under the Original Plan and the Original Support Agreement, after the Petition Date, which is not subject to the effects of this Judicial Recovery and enjoys all the benefits set forth in Article 67, Section IV-A and Article 84 I-B, all of the LRF, and which shall be restructured on a voluntary basis by the A/L Creditors, in the form of Appendix I-A of the Term Sheet and Clause 8.2.1 below.

1.1.57 "Subject A/L Credits": are the credits arising from the Amaralina and Laguna Original Loan Agreement, as restructured by the Original Plan and the Original Plan Support Agreement, which will be restructured according to the conditions set forth in Appendix I-A of the Term Sheet and Clause 8.2.1 below.

1.1.58 "ALB Guaranteed LC Credits": has the meaning given in Clause 1.1.34 above.

1.1.59 "ALB Credits": means the A/L Subject Credits, A/L Non-Subject Credits, the Brava Subject Credits and the Brava Non-Subject Credits, considered together. ALB Credits encompasses the ALB Credit Guaranteed LC.

1.1.60 "Restructured ALB Credits ": are the credits arising from the ALB Restructured Loan Agreement.

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1.1.61 "Subject ALB Credits": means the Subject A/L Credits and the Subject Brava Credits, considered together.

1.1.62 "Non-Subject ALB Credits": means the Non-Subject A/L Credits and the Non-Subject Brava Credits, considered together.

1.1.63 "2030 Bonds Credits": are the Credits arising from the 2030 Bonds.

1.1.64 “Non-Subject Bradesco Credits”: means (i) Credits arising from the Non-Subject Bradesco Loan Agreement, which is not subject to the effects of this Judicial Reorganization and enjoys all the benefits established by article 67, by Section IV-A and by article 84, IB, all of the LRF, and which will be voluntarily restructured by Bradesco, pursuant to Appendix III of the Term Sheet and Clause 8.2.4 below; (ii) any credits arising from the Perennial Letter of Credit; as well as (iii) any credits arising from the Bradesco Reimbursement Agreements and Bradesco Letters of Credit, as they were not signed to the detriment of the Companies under Reorganization before the Petition Date.

1.1.65 "Restructured Bradesco Credits": are the Bradesco Subject Credits and the credits arising from the Bradesco Non-Subject Loan Agreement.

1.1.66 “Bradesco Subject Credits”: are the credits arising from the Bradesco Loan Agreement, as restructured by the Original Plan and by the Original Plan Support Agreement, which will be restructured according to the conditions set forth in Appendix III of the Term Sheet and Clause 8.2. 4 below.

1.1.67 "Non-Subject Brava Credits": means the loan in the historical amount of $11,871,571.70, maturing on November 9, 2023, granted by certain banks to Amaralina and Laguna, under the Original Plan and the Original Support Agreement, after the Petition Date, which is not subject to the effects of this Judicial Recovery and enjoys all the benefits set forth in Article 67, Section IV-A and Article 84 I-B, all of the LRF, and which shall be restructured on a voluntary basis by the A/L Creditors, in the form of Appendix I-A of the Term Sheet and Clause 8.2.1 below.

1.1.68 "Subject Brava Credits": shall mean the credits arising under the Original Brava Loan Agreement, as restructured by the Original Plan and the Original Plan Support Agreement, which shall be restructured again pursuant to the conditions set forth in Appendix I-A of the Term Sheet and Clause 8.2.1 below.

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1.1.69 "Brava Credits": These are the Subject Brava Credits and Non-Subject Brava Credits, considered together.

1.1.70 "Collateral Credits": are the Credits secured by collateral rights, up to the limit of the value of the respective asset, pursuant to article 41, item II and article 83, item II of the LRF, which shall be restructured pursuant to Clause 8.2 below.

1.1.71 “Bankruptcy Credits”: are the Credits held by the Creditors against the Companies Under Reorganization, or that they may be liable for any type of co-obligation, whether overdue or falling due, materialized or contingent, liquidated or unliquidated, object or not of a judicial or administrative dispute or arbitration proceeding, initiated or no, derived from any legal relationships and contracts existing before the Petition Date or whose triggering event is prior to the Petition Date, or arising from contracts, instruments or obligations existing on the Petition Date, subject to the judicial reorganization regime and that, as a result, are subject to this Restated Plan, under the terms of the LRF..

1.1.72 “Supplier Credits”: the Unsecured Credits and ME/EPP Credits held by Supplier Creditors.

1.1.73 " Unliquidated Credits": are the Bankruptcy Credits held against the Companies Under Reorganization that were not liquidated on the Petition Date and/or that have not yet become liquidated, including, but not limited to, services already provided and pending measurement, whose existence and/or or amounts are or will be questioned by the Companies under Reorganization, which will be restructured under the terms of Clause 8.7 below. Credits that are recognized in the Creditor's List are not Unliquidated Credits.

1.1.74 "ME/EPP Credits": are the Credits held by the Bankruptcy Creditors constituted in the form of micro and small business companies, as defined by Complementary Law no. 123, of December 14, 2006, by article 41, item IV and by article 83, item IV, d, of the LRF, which shall be restructured pursuant to Clause 8.4 below.

1.1.75 "Credits Not Subject to Judicial Reorganization": means the credits held against the Companies Under Reorganization: (i) whose taxable event is subsequent to the Date of the Request; or (ii) that fall under article 49, paragraphs 3 and 4 of the LRF, or other rules of Brazilian legislation that expressly exclude them from the effects of this Judicial Reorganization. Through this Restated Plan, the Companies Under Reorganization and the Supporting Creditors declare, guarantee and acknowledge, for all legal purposes and effects, that the Non-Subject A/L Credits,

LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
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the Non-Subject Brava Credits, the Non-Subject Bradesco Credits and the Credits Not Subject to New Participating Bonds are Credits Not Subject to Judicial Reorganization. Also, the Companies Under Reorganization and Supporting Creditors recognize that the New Priority DIP Financing, when contracted, will also not be subject to the effects of this Judicial Reorganization and will enjoy all the benefits established by article 67, by Section IV-A and by article 84, IB, all from LRF.

1.1.76 "New Participant 2024 Bonds": are the credits instrumentalized through the New Participant 2024 Bonds.

1.1.77 "Non-Subject New 2024 Participating Bonds Credits": are the credits instrumentalized by means of the New 2024 Participating Bonds corresponding to the resources made available by the Creditors of the New 2024 Participating Bonds, in the historical amount of US$ 27,000.000.00, after the Petition Date, under the Original Plan and the Original Plan Support Agreement, which is not subject to the effects of this Judicial Reorganization and enjoys all the benefits set forth in article 67, section IV-A and article 84, I-B, all of the LRF, and that will be voluntarily restructured by the Creditors of the New Participating 2024 Bonds, in the form of Appendix II of the Term Sheet and Clause 8.2.2 below.

1.1.78 “Partner Credits": the Credits held by Partner Creditors.

1.1.79 "Unsecured Credits": are the Bankruptcy Credits provided for in article 41, item III and article 83, item VI, of the LRF, which shall be restructured pursuant to Clause 8.3 below.

1.1.80 "Delayed Credits": these are the Credits qualified under the terms of article 10 of the LRF.

1.1.81 "Labor Credits": are the Credits and rights arising from labor legislation or arising from occupational accidents, pursuant to article 41, item I and article 83, item I, of the LRF, and the credits and rights consisting of attorney's fees, which shall be restructured pursuant to Clause 8.1 below.

1.1.82 "Creditors": are the individuals or legal entities holding Credits against the Companies under reorganization, whether or not listed in the List of Creditors.

1.1.83 "A/L Creditors": are the holders of Subject A/L Credits and Unsubject A/L Credits.

1.1.84 "ALB Creditors": are, together, the A/L Creditors and the Brava Creditors.

LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
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1.1.85 "Supporting Creditors": are the Creditors of the Companies under reorganization that have entered into or adhered to the New Plan Support Agreement and Term Sheet.

1.1.86 "2030 Bonds Creditors": are the holders of 2030 Bond Credits.

1.1.87 "Brava Creditors": means the holders of Subject Brava Credits and Non-Subject Brava Credits.

1.1.88 "Assignee Creditors": are the Creditors that become holders of Bankruptcy Credits as a result of the execution of credit assignment agreements in which a Bankruptcy Creditor is the assignor and the object of the assignment is a Bankruptcy Credit, subject to the provisions of Section 11.11 below and, as applicable, the New Plan Support Agreement.

1.1.89 “Secured Creditors”: the Creditors holding Secured Credits.

1.1.90 “Bankruptcy Creditors”: the Creditors holding Bankruptcy Credits.

1.1.91 "Creditors of the New Bonds 2024": are the holders of the New Bonds 2024.

1.1.92 "Creditors of the New Participating 2024 Bonds": means the holders of the New Participating 2024 Bonds.

1.1.93 “Supplier Creditors”: the holders of Unsecured Credits and ME/EPP Credits that derive from the supply of goods and services necessary for the development of the Constellation Group's activities and/or its restructuring.

1.1.94 “Unliquidated Creditors”: the Creditors holding Unliquidated Credits.

1.1.95 “ME/EPP Creditors": the Creditors holding ME/EPP Credits.

1.1.96 "Partner Creditors": are considered (i) the Supporting Creditors; (ii) the Supplier Creditors who maintained the supply of goods and/or services to the Companies Under Reorganization, without unjustified alteration of the terms and conditions practiced until the Petition Date; that, once requested by any of the Companies Under Reorganization, they do not refuse to provide goods and/or services under the terms and conditions practiced up to the Petition Date; that do not have any type of litigation in progress against any of the Companies under Reorganization

LUCAS LIVINGSTONE FELIZOLA SOARES DE ANDRADE
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NT67164_001
Enrolled in the Trade Board of the State of São Paulo under number 1879, on 06/14/2016, named for the English and Portuguese languages. Page: 14

and that they have not brought collection procedures, protests or any other acts related to the Bankruptcy Credits that imply the restriction of the Constellation Group's credit; (iii) the Contracting Creditors of the Companies Under Reorganization that maintain the current contractual and commercial relationship with the Companies Under Reorganization or that establish new contracts with the Debtors as of the Petition Date; its employees and former employees who hold Unsecured Credits arising from expenses incurred in the exercise of professional activities.

1.1.97 “Unsecured Creditors”: the Creditors holding Unsecured Credits.

1.1.98 “Delayed Creditors”: the Creditors holding Bankruptcy Credits which, in whole or in part, may be deemed Delayed Credits.

1.1.99 “Subrogatory Creditors”: the Creditors who subrogate in the position of Bankruptcy Creditor because they have paid, spontaneously or not, any Bankruptcy Credit for which they are deemed co-obligated, by contract, legal provision or judicial determination.

1.1.100 "Individual Labor Creditors holding Sub-Judice Credits": are the individual Labor Creditors who have filed judicial, administrative and/or arbitration proceedings against the Constellation Group.

1.1.101 “Labor Creditors”: the Creditors holding Labor Credits.

1.1.102 "Closing Date": is the date corresponding to the implementation and closing of the restructuring subject matter of this Restated Plan, which shall occur by May 31, 2022, subject to the provisions of the New Plan Support Agreement and its annexes, as well as the Term Sheet.

1.1.103 "Confirmation Date": the date on which the decision of Confirmation of the Restated Plan issued by the Reorganization Court is published in the Official Gazette.

1.1.104 “Petition Date”: the date on which the request for Judicial Reorganization was filed by the Debtors, i.e., 12.06.2018.

1.1.105 “Business Day”: any day other than Saturday, Sunday, national holidays, municipal holidays or that, for any reason, there is no forensic and/or banks service in the cities of São Paulo, Rio de Janeiro, New York, London, Luxembourg, Panama City and Mumbai.

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NT67164_001
Enrolled in the Trade Board of the State of São Paulo under number 1879, on 06/14/2016, named for the English and Portuguese languages. Page: 15

1.1.106 "Contingent Value Rights": means the rights issued by Constellation Holding vested in the Legacy Shareholders and the New Financing Priority DIP Creditors, the meaning of which is specified in Appendix VIII of the Term Sheet.

1.1.107 "Qualified Liquidity Event": means a Liquidity Event approved under the New Plan Support Agreement as well as Appendix VIII of the Term Sheet.

1.1.108 "Liquidity Event": subject to the provisions of Appendix VIII to the Term Sheet, means with respect to Constellation Holding, any transaction or series of transactions to which Constellation Holding is a party relating to: (i) any merger or incorporation (whether or not Constellation Holding is the remaining entity), other than a merger or incorporation of Constellation Holding with one or more of its subsidiaries(ii) any stock purchase, business combination or offer to purchase or offer to exchange, or any other transaction, whereby any "person" or "group" may acquire or otherwise hold title to more than fifty percent (50%) of the voting shares of Constellation Holding; or (iii) any sale, transfer, lease, leaseback, exchange, encumbrance or other disposition of assets representing all or substantially all of the assets of Constellation Holding (including its subsidiaries, as a whole).

1.1.109 "Gold Star": has the meaning assigned in the recitals.

1.1.110 "Ad Hoc Group ": means certain ad hoc group of Creditors of the New 2024 Bonds who have adhered to the New Plan Support Agreement and Term Sheet.

1.1.111 "Constellation Group": has the meaning assigned in the recitals.

1.1.112 "Judicial Confirmation of the Restated Plan": is the judicial decision entered by the Reorganization Court that confirms the Restated Plan, pursuant to the LRF. For the purposes of this Restated Plan, Judicial Confirmation of the Restated Plan is deemed to occur on the Confirmation Date.

1.1.113 "Joint Provisional Liquidators": (i) Eleanor Fisher and Paul Pretlove, jointly appointed by the Eastern Caribbean Supreme Court in the Superior Court of the British Virgin Islands on December 19, 2018, to act, together or separately, as provisional liquidators of: Constellation Overseas, Alpha Star, Gold Star, Lone Star, Snover and Olinda Star, appointed for all companies until December 18, 2019, except for Olinda Star, this being until April 7, 2020; (ii) Eleanor Fisher and Roy Bailey, appointed jointly by the Eastern Caribbean Supreme Court in the Superior Court of Justice of the British Virgin Islands on April 8, 2021, to act, together or separately, as

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provisional liquidators of: Constellation Overseas, Constellation Services, Alpha Star, Gold Star, Lone Star, Hopelake Services Ltd. and Olinda Star; and, (iii) Eleanor Fisher and Roy Bailey, appointed by the Grand Court of the Cayman Islands on April 13, 2021 to act, together or separately, as provisional liquidators of Star Drilling.

1.1.114 “Court of Reorganization”: the 1st Business Court of the Judicial District of the Capital of the State of Rio de Janeiro, for which the request for Judicial Reorganization of Constellation Group was presented.

1.1.115 "Laguna": has the meaning assigned in the recitals.

1.1.116 "Laguna Star Term Loans": has the meaning assigned in the Amaralina and Laguna Loan Agreement.

1.1.117 "Lancaster": has the meaning assigned in the recitals.

1.1.118 "Reports": they are (i) the economic-financial feasibility report; and (ii) the valuation report of the Recovered Companies' property and assets, presented under the terms and for the purposes of article 53, items II and III, of the LRF, which were part of Annexes I and II of the Original Plan.

1.1.119 “Corporation Law”: Federal Law No. 6.404, of December 15, 1976, as amended.

1.1.120 "List of Creditors": is the consolidated list of creditors, to be presented on the same date of presentation of the Restated Plan, in the records of the Judicial Reorganization proceeding, and used to vote on this Restated Plan at the Meeting of Creditors1, reflecting (i) consummate facts such as the payments made and the guarantees granted by the Companies Under Reorganization as a result of the Original Plan; (ii) interest, charges and inflation adjustments applicable due to and under the Original Plan until April 7, 2021, when the obligations of the Original Plan were suspended by the Reorganization Court; (iii) assignment of credits informed to the Companies Under Reorganization and/or i. Judicial Administrator; (iv) the result of qualifications and differences of credit already final and unappealable, and/or (v) credits recognized by the Companies under Reorganization as due and prior to the Petition Date. The List of Creditors does not include Credits not Subject to Judicial Reorganization.

[1] All current court decisions have been observed, especially the preliminary injunction decision issued in Interlocutory Appeal No. 0067320-33.2021.8.19.0000.

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1.1.121 "Lone Star": has the meaning assigned in the recitals.

1.1.122 “LRF”: Federal Law No. 11.101, of February 09, 2005, as amended, which provides for the judicial and extrajudicial reorganization, as well as for the bankruptcy of the businessperson and the company.

1.1.123 "LuxCo": is LUX Oil & Gas International S.a.r.L., the current majority shareholder of Constellation Holding, which is an entity 100% owned by Sun Star Fundo de Investimento em Participações Multiestratégia Investimento no Exterior, an Equity Investment Fund.

1.1.124 "Manisa": has the meaning assigned in the recitals.

1.1.125 "Subsequent Milestones": means the subsequent milestones described in Clause 11.01 (n) of the New Plan Support Agreement.

1.1.126 "New Shareholders' Agreement": means the new shareholders' agreement of Constellation Holding, to be executed in the form of the New Plan Support Agreement, Term Sheet and its related exhibits, on the Closing Date.

1.1.127 "New Plan SupportAgreement": means the Plan Support Agreement and Lock-up Agreement and its related exhibits, entered into on March 24, 2022, by and between, inter alia, the Companies under reorganization and the Supporting Creditors, which constitutes Annex I to this Restated Plan.

1.1.128 "New Priority DIP Financing": has the meaning assigned in Clause 6.2.3 below.

1.1.129 "New Shareholders": shall mean, in aggregate, the holders of Class A Shares, Class B Shares and Class C Shares.

1.1.130 "New 2024 Bonds": are the New 2024 Participating Bonds and the New 2024 Non-Participating Bonds.

1.1.131 "New 2024 Non-Participating Bonds" shall mean the senior secured notes (bonds) due 2024 issued by Constellation Holding, in the form of the Indenture dated December 18, 2019, entered into between Constellation Holding, as issuer and other entities of the Constellation Group as guarantors, at the rate of 10% PIK, without partial amortization, which will be restructured and

replaced in the form of Clause 8.2.3 below, of the New Plan Support Agreement, as well as Annex IV of the Term Sheet.

1.1.132 "New Participating 2024 Bonds" shall mean the senior secured notes (bonds), maturing in 2024, issued by Constellation Holding, in the form of the Indenture dated December 18, 2019, entered into between Constellation Holding, as issuer and other entities of the Constellation Group as guarantors, at variable rates and with provision for partial amortizations, which will be restructured and replaced in the form of Clause 8.2.2 below, of the New Plan Support Agreement, as well as of Annex II of the Term Sheet.

1.1.133 "New Restructuring Instruments": means the instruments that will be signed and become effective on the Closing Date, provided that the conditions precedent set forth in the New Plan Support Agreement and Term Sheet are verified.

1.1.134 "New CAPEX Resources": has the meaning assigned in Clause 6.1 below.

1.1.135 "Olinda Star": means Olinda Star Ltd.

1.1.136 "Exempt Parties" means (i) the Legacy Shareholders, (ii) the Joint Provisional Liquidators, (iii) the Supporting Creditors, (iv) the New Priority DIP Financing Creditors, (v) the Companies under Reorganization, and with respect to all of the foregoing, their subsidiaries, affiliates and other companies belonging to the same group, and their respective officers, directors, employees, attorneys, advisors, agents, representatives, including their predecessors and successors, and, furthermore, whereas the Exempt Parties do not include any partner or joint venture partner, former partner of any Company under Reorganization or any other entity that is not part of the Constellation Group and is a debtor of an entity of the Constellation Group.

1.1.137 "Petrobras": is Petróleo Brasileiro S.A., a joint stock company of federal mixed economy created by Law No. 2.004, of October 3, 1953, and governed by Law No. 9.478, of August 6, 1997, enrolled in the CNPJ/ME under No. 33.000.167/0001-01, with its headquarters at Av. República do Chile n. 65, sala 502, Centro, Rio de Janeiro/RJ, CEP 20.031-912.

1.1.138 “PIK”: means capitalization of interest without payment in cash under the specific contract.

1.1.139 "Restated Plan": means this Amended and Restated Constellation Group Joint Judicial Reorganization Plan and all exhibits thereto, as amended, modified or changed from time to time.

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1.1.140 "Original Plan": is the Joint Judicial Reorganization Plan of Constellation Group confirmed by the Court of Reorganization on July 1, 2019, as amended by the 16th Civil Chamber of the Court of Appeals of Rio de Janeiro.

1.1.141 “Ancillary Proceeding Abroad”: means each of the auxiliary proceedings filed before the U.S. jurisdiction, based on Chapter 15 of the U.S. Bankruptcy Code, as well as each of the auxiliary proceedings filed in the British Virgin Islands, referred to as “soft touch provisional liquidation” and in the Cayman Islands, referred to as “light touch provisional liquidation”.

1.1.142 “Judicial Reorganization”: the process of judicial reorganization of the Debtors under No. 0288463-96.2018.8.19.0001.

1.1.143 "Companies under reorganization": has the meaning assigned in the recitals.

1.1.144 "Net Liquidity Event Resources": has the meaning assigned in Clause 7.1 below, subject to the provisions of the New Plan Support Agreement and its attachments, and Appendix VIII of the Term Sheet.

1.1.145 "Surplus Cash Balance": has the meaning stipulated in the New Restated Plan Support Agreement and its annexes, as well as in Appendix IX of the Term Sheet.

1.1.146 "Snover": has the meaning assigned in the recitals.

1.1.147 "SOFR": is the Secured Overnight Financing Rate, a benchmark overnight interbank interest rate secured for dollar-denominated loans and derivative transactions and established as an alternative to LIBOR, which is published by the Federal Reserve Bank of New York (or its successor) on its Internet website.

1.1.148 "Star Drilling": has the meaning assigned in the recitals.

1.1.149 "Tarsus": has the meaning assigned in the recitals.

1.1.150 "Term Sheet": is Appendix II of this Restated Plan.

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1.1.151 “Financial Commitment Term”: means the contract through which the Ad Hoc Group undertakes, provided that the conditions set forth therein are met, to provide the New DIP Financing, entered into pursuant to Appendix B of the Term Sheet.

1.1.152 "Trust Cayman": has the meaning given in the New Plan Support Agreement, Term Sheet and its respective annexes.

1.1.153 "Debt Conversion Amount": means the lesser of (i) the outstanding balance of the convertible debt and (ii) 87% of the Net Liquidity Event Resources as provided in the New Plan Support Agreement as well as the Term Sheet.

1.2 Indivisibility of the New Plan Support Agreement. The New Plan Support Agreement, the Term Sheet, as well as their respective annexes, are integral, inseparable and indivisible parts of this Restated Plan in its entirety; given that in the event of any conflict of any nature between the provisions of this Restated Plan and the New Plan Support Agreement and the Term Sheet, (i) the provisions of the New Plan Support Agreement and the Term Sheet shall prevail, as far as with respect to the Supporting Creditors, subject to the provisions of Clause 14.16(c) of the New Plan Support Agreement, and (ii) the provisions of the Restated Plan, with respect to the other Bankruptcy Creditors.

1.2.1 The Approval of the Restated Plan and the Judicial Confirmation of the Restated Plan imply the concomitant approval and judicial confirmation of the New Plan Support Agreement, the Term Sheet, as well as their respective annexes, subject to the provisions of Clause 14.16(c) of the New Plan Support Agreement.

1.3 Translation. In case of divergence between the original Portuguese version of the Restated Plan and the English translated version of the Restated Plan that exists or is made available by the Constellation Group or its advisors, the Portuguese version shall prevail. In case of divergence between the original English version of the New Plan Support Agreement, the Term Sheet and their respective annexes and respective Appendices and the translated Portuguese version of the New Plan Support Agreement, the Term Sheet and their respective annexes and respective Appendices that exist or are made available by the Constellation Group or its advisors, the English version shall prevail.

1.3.1 The Joint Provisional Liquidators have relied on an English translated version of the Restated Plan, reserving all their rights pending a certified English translation of the Restated Plan.

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1.4 Clauses and Annexes. Unless otherwise specified, all Sections and exhibits referred to in this Restated Plan refer to Sections and exhibits in this Restated Plan, and references to Sections or items in this Restated Plan refer also to their respective subclauses and subitems. All attachments to this Restated Plan are hereby incorporated herein and constitute an integral, inseparable and indivisible part of the Restated Plan.

1.5 Headings. The chapter headings and clauses in this Restated Plan are included for reference only and shall not affect its interpretation or the content of its provisions.

1.6 Terms. The terms “include”, “including” and similar terms are to be construed as accompanying the expression “but not limited to”.

1.7 References. References to any documents or instruments include all related amendments, consolidations and supplements, as applicable, except as otherwise expressly provided in this Restated Plan.

1.7.1 All references to the New Plan Support Agreement should comprise its Annexes, as well as the Term Sheet and its respective Appendices.

1.8 Legal Provisions. References to legal provisions and laws shall be construed as references to such provisions as in force on such date or at a date that is specifically determined by the context.

1.9 Deadlines. All the terms foreseen in this Restated Plan shall be counted in the way determined in article 132 of the Civil Code, ignoring the beginning day and including the expiration day. Any deadlines in this Restated Plan (whether counted in Business Days or otherwise) whose final term falls on a day that is not a Business Day shall be automatically extended to the first subsequent Business Day, except as otherwise provided in the New Plan Support Agreement and Term Sheet.

2 General Considerations.

2.1 Brief History. In 1980, Queiroz Galvão Perfurações S.A. was founded in Rio de Janeiro – the embryo of Constellation Group, which is currently named Serviços de Petróleo Constellation S.A.

Initially providing services to Petrobras, the Constellation Group's operations were carried out through the leasing of onshore drilling rigs, operating mainly in the North and Northeast regions of the country.

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In parallel with the development of the onshore drilling activity, in line with the new economic situation in Brazil, Constellation Group has developed and internationalized itself, becoming also engaged in the offshore drilling activity, with a strong presence in ultra-deep waters.

Currently, Constellation Group holds a total of 17 rigs, being: (a) 9 onshore drilling rigs, of which 4 are conventional and 5 are heliportable; and (b) 8 offshore drilling rigs, of which 2 are semi-submersible and anchored for operation in water depth of up to 1,100 meters, 3 with dynamic positioning for operation in water depth of up to 2,700 meters and 3 drill ships for operation in water depth of up to 3,000 meters.

The prevailing operational activity of Constellation Group is enabled through offshore rigs, in which, out of a total of eight, seven of them are operating in Brazil. These rigs were acquired by the Constellation Group according to the demand of the oil and gas sector in Brazil, in order to serve, as a priority, the leads undertaken by Petrobras in the country.

The Constellation Group is the performance leader in pre-salt operations due to: (a) its high operational efficiency; (b) Real-Time Operations Center (RTOC) technology, which allows the monitoring of operations from a distance and increased safety in processes, by means of performance monitoring and its contribution in problem-solving; (c) extensive experience with operational issues, which include a crew familiar with the challenges of such operational environment, together with procedures designed specially to assist in the drilling activity; and (d) the equipment of the drilling units being perfectly adapted to the particularities of the pre-salt layer.

In short, Constellation Group is one of the largest business groups in the provision of services for exploration of oil and gas in Brazil, and its notability and excellence have been recognized by its clients, by the ANP and by institutional players. Therefore, the importance of the Debtors is unquestionable, and their uplifting and preservation are essential for the oil and gas industry in the country.

2.2 Corporate and Operational Structure. The corporate structure exposed in Annex VIII of the New Plan Support Agreement, typical of the oil and gas sector, is taken care of, with the parent company abroad controlling specific purpose companies, also abroad, that take out financing abroad, acquire rigs and charter them to the client – historically, in the case of the Constellation Group, Petrobras –, with the operating company located in the client's country, where the rigs actually operate, in this case Brazil.

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2.3 Reasons for the Crisis. In 2018, the Constellation Group's financial situation stemmed from a number of factors, notably: the drop in the price of a barrel of oil, the crisis in demand in the oil and gas sector, the contracting of financing for the acquisition of drilling units, the restrictions on access to credit for companies in the oil and gas sectors, the drop in the rate of return on service provision and chartering contracts, the political and economic situation and scenario in Brazil, the Petrobras Divestment Program, regulatory requirements, and the increase in the tax burden.

This scenario adds up to the economic scenario in our country. Constellation Group has its operational activity mainly developed in Brazil, providing services primarily to a Brazilian company, Petrobras. That is, the effects of the crisis in the country fell unforgivably on the Debtors, historically service providers for Petrobras.

For no other reason, the unprecedented crisis has generated difficulties not only for the state-owned company, but, naturally, also for its entire supply chain.

Therefore, despite the fact that the Debtors are highly recognized companies in the market due to their soundness and their administrative and operational capacity and efficiency, the economic and oil crisis that was established internationally and mainly in the Brazilian territory, brutally affected the cash flow, making necessary for the integral maintenance of its activities, the Restructuring of debts through Judicial Reorganization.

The Original Plan described the different conditions and measures to be adopted for the necessary restructuring of the Constellation Group's liabilities and reversal of the momentary crisis, and the listed Labor and Supplier Partner Creditors were fully paid.

Despite this, in view of a new factual and market context caused, especially due to the pandemic scenario that affects all branches of the economy, the Constellation Group found itself faced with the need to change the Original Plan, adapting it to the new extraordinary and unpredictable scenario, so as to allow, thus, the preservation of its business activities and, consequently, the maintenance of the source of production and jobs, as well as the promotion of its social function.

It is in this context that the Constellation Group presents this Restated Plan with a view to enabling the implementation of new measures to restructure its obligations, which it submits to the appreciation of its Creditors and the Reorganization Court.

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2.4 Economic and Operational Feasibility. Constellation Group is confident that the liquidity crisis being faced is temporary and should not affect the soundness of its activities permanently.

This is because the Debtors are highly qualified and specialized companies and are able to participate in the new scenario of the oil and gas sector in the country, which shall necessarily result in the exploration of pre-salt oil.

In addition, Debtors are already being very successful in relation to new businesses. Although the genesis of Constellation Group is the provision of services to Petrobras, and while continuing to participate in the bidding processes carried out by the state-owned company, as a way to deal with the crisis in the country, the Debtors has entered into agreements with other companies in the sector.

Furthermore, in a global perspective, the future political and economic scenario in Brazil is positive for the oil and gas sector, in view of the great demand for energy worldwide and, especially, of the forecast increase in the price of energy commodities.

In fact, this scenario is positive for the sector, and the demand for offshore rigs for ultra-deep water exploration tends to increase for the next few years. In this sense, the relevance of the Constellation Group stands out in the sector, since 6 of its 8 offshore rigs are suitable for drilling in ultra-deep waters, and it is certain that the Constellation Group is the leader in operations of this type, including areas of the Brazilian pre-salt.

Therefore, it is clear that there is a great interest in stimulating the activities of the Debtors. The Judicial Reorganization shall allow the maintenance of more than 1,200 direct jobs in the country – and so many other indirect ones –, the implementation of measures and operational efficiency and corporate restructuring, allowing the competitive performance in the oil and gas sector of the country – and internationally.

There is no doubt that the Constellation Group is completely viable and of great importance for the oil and gas segment, and it is certain that there is total commitment not only in guaranteeing the best possible performance in the contracts in progress – allowing eventual renewal – but also total commitment in the fierce competition for new contracts. Proof of this is the fact that the status reported on the Petition Date is substantially different from today: today, all the Constellation Group's offshore rigs are contracted.

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All these factors lead to the conclusion that Constellation Group's Judicial Reorganization is completely possible, which meets the purposes of the LRF. The feasibility of the Judicial Reorganization of the Constellation Group is attested and confirmed by the Reports, subscribed by a specialized company, as per article 53, items II and III, of the LRF, which are included in Annexes I and II to the Original Plan.

3 Overview of Restructuring Measures.

3.1 Purpose of the Restated Plan . The Restated Plan aims to allow the Recovering Companies to overcome their economic-financial crisis through the implementation of the essential measures set forth in this Restated Plan. All measures, the implementation of which entails the continuity of the Judicial Reorganization procedure and its effects, are essential for the settlement and payment of Bankruptcy Credits, as well as for strengthening the Constellation Group's cash position and, thus, ensuring that the Companies Under Reorganization maintain operational activity of excellence and remain competitive to attract growing commercial opportunities. Achieving the goals of the Restated Plan will allow for successful business recovery, ultimately preserving direct and indirect jobs and the rights of its Creditors.

3.2 Means of Recovery. Constellation Group will balance and settle its Bankruptcy Credits using the recovery means provided for in this Restated Plan, which provides for: (i) the liquidation and/or encumbrance of companies, pursuant to Clause 4 below; (ii) the disposal of Assets, pursuant to Clause 5 below; (iii) the raising of new funds, pursuant to Clause 6 below; (iv) the use of funds arising from a Qualified Liquidity Event to pay Bankruptcy Credits, pursuant to Clause 7 below; (v) the restructuring of maturities, charges, payment terms and conditions, including, but not limited to, the use of Excess Cash Balance, pursuant to Clause 8 below; and (vi) the conversion of debt into capital stock or securities of Constellation Holding, as provided for in the New Plan Support Agreement, in the Term Sheet and its respective annexes and in Clauses 9 below.

3.3 Acts and procedures required to implement the Restated Plan, the New Plan Support Agreement, and the Term Sheet. The Companies Under Reorganization are obliged, until the Closing Date (inclusive), under penalty of immediate noncompliance with this Restated Plan, to obtain all necessary authorizations, including the applicable corporate authorizations, as well as to perform all acts, including corporate acts, necessary to implementation of the means of recovery provided for in this Restated Plan, in the New Plan Support Agreement and in the Term Sheet, including, but not limited to, obtaining approvals from the Legacy Shareholders at a general meeting of shareholders of Constellation Holding for (a) the reform of its bylaws and alteration

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of the governance structure; (b) the future realization of as many capital stock increases as are necessary for the implementation of the Restated Plan, the New Plan Support Agreement and the Term Sheet, in particular the conversion into capital stock of certain Credits, as provided for in this Restated Plan; (c) contracting and granting of guarantees for the New Capex Resources and the New Priority DIP Financing; and (d) signing of the New Restructuring Instruments. Additionally, the Companies Under Reorganization may take all reasonable and necessary measures in any and all applicable jurisdictions, including Brazil, the United States of America, the British Virgin Islands and the Cayman Islands, strictly in order to comply with the respective applicable laws and implement the measures provided for in this Restated Plan, in the New Plan Support Agreement and in the Term Sheet.

4 Corporate Liquidation.

4.1 Specific Companies. As a measure to optimize the corporate structure of the Constellation Group, with a view to reducing costs and administrative efficiency, the companies listed in Annex X of the New Plan Support Agreement will be dissolved, liquidated or otherwise written off in accordance with applicable law, subject to the conditions set out in the New Plan Support Agreement.

5 Disposal and/or Encumbrance of Assets.

5.1 Form and purpose. As a way of obtaining resources, strengthening liquidity for the capital structure of the Companies under Reorganization, reinvesting in the business and optimizing the operation, the Constellation Group may carry out the Sale of Assets, either in the form of direct sale, pursuant to article 66 of the LRF, or a competitive process for the sale of an isolated production unit, pursuant to article 60, caput and sole paragraph, article 142 and other applicable provisions of the LRF and article 133, §1, of the National Tax Code, provided that the terms of this Restated Plan, the New Plan Support Agreement and its annexes, as well as Appendix VI of the Term Sheet, the respective corporate instruments of the Companies under Reorganization and the legislation applicable to the Ancillary Proceeding Abroad in progress in the British Virgin Islands and Cayman Islands are met.

5.2 Request for Authorization. Unless expressly provided for in this Restated Plan and/or already implemented as established in the Original Plan, any and all disposal of assets, while the Recovered Companies are still under Judicial Reorganization, must be preceded by a request for judicial authorization, pursuant to article 66 of the LRF.

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5.3 Resource Allocation. The proceeds from insurance or from the disposal of any and all Assets serving as security for the Secured Creditors shall be used as specified in the New Plan Support Agreement and its attachments, as well as in the Term Sheet; and, after the Closing Date, as specified in the New Instruments of the Restructuring.

6 New Features.

6.1 New CAPEX Resources. Subject to the provisions of the New Plan Support Agreement, the Term Sheet and their respective attachments, as of the Closing Date, Constellation Group may incur new debt, on customary market terms, to meet thes capital expenditures related to the rigs (including maintenance, upgrade or adaptation expenditures, but excluding any acquisition of a new rig) in the aggregate amount equivalent to US$30.000,000.00 ("New CAPEX Resources").

6.1.1 Authorization for the granting of a priority guarantee. The Supporting Creditors, in order to enable the granting of the New CAPEX Resources, expressly authorize the sharing and granting of priority on part of their guarantees provided for in this Restated Plan, exclusively in the manner and respecting the limits and provisions of Appendices VI and XI of the Term Sheet, noting that, in any case, such collateral shall be subordinated to the collateral constituted in favor of the New Priority DIP Financing. In the form and respecting the provisions of Appendices VI and XI of the Term Sheet, all instruments formalizing such new financing shall contain an express provision obligating the lender to agree to the subordination of its collateral to the New Priority DIP Financing.

6.2 New Priority DIP Financing.

6.2.1 Need. The crisis that motivated the presentation of this Restated Plan by the RCompanies under Reorganization has greatly damaged the business plan of the Constellation Group, creating high additional expenses. Thus, the possibility of taking out the New Priority DIP Financing is essential to the recovery of the Companies under Reorganization. For this reason, this restructuring was mainly based on the dedication of efforts to prospect for new financing in an amount sufficient to meet its operational needs.

6.2.2 Option. Over months of prospecting, the financing proposed by the Ad Hoc Group proved to be the only alternative for the Companies under Reorganization, in order to reconcile the high amount essential for the operations of the Constellation Group and the need to grant priority guarantees in relation to the guarantees already constituted. in favor of the Supporting Creditors.

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6.2.3 Authorization. As of the Closing Date, inclusive, the Bankruptcy Creditors approve the contracting by Constellation Holding of a new loan, pursuant to articles 67, 69-A et seq. of Section IV-A, and article 84 IB of the LRF, to be granted by the Ad Hoc Group, in the principal amount of US$ 60,000,000.00, subject to the provisions of the New Plan Support Agreement, the Term Sheet and its respective annexes, which has the following main characteristics ("New Priority DIP Financing"):

a) Principal value: $60,000,000.00.

b) Deadline: three (3) years from the date of disbursement.

c) Amortization:

(i) until the 16th month from the date of disbursement: no amortization;

(ii) between the 16th month and the 24th month, inclusive, counted from the date of disbursement: 8% of the principal value each quarter;

(iii) after the 24th month from the date of disbursement: 19% of the principal amount each quarter.

d) Charges: 13.5% p.a., to be paid on the last day of March, June, September and December of each year, starting on the first month of March, June, September or December immediately following the date of disbursement.

e) Guarantees: real and fiduciary guarantees will be provided, in the form and identified in the New Plan Support Agreement and its attachments, as well as in the Term Sheet, which will be provided by the same guarantors of the Credits of the Supporting Creditors, being also certain that the guarantees provided in favor of the Creditors of the New Priority DIP Financing will have priority in the form of Clause 6.2.5 below.

f) Form: to be documented by the issuance of notes (bonds) by Constellation Holding, which will be governed by New York Law.

g) Possibility of Prepayment: subject to the terms and conditions of the New Plan Support Agreement and its annexes, as well as the Term Sheet, in the following cases:

(i) Without involving a Liquidity Event:

□ Until the 18th month from Closing Date: no prepayment possible;

□ Between the 18th month and the 24th month, inclusive, counted from the Closing Date: the prepayment shall be made applying the rate of 113.5% on the outstanding balance; and

□ Between the 24th month and the 30th month, inclusive, counted from the Closing Date: the prepayment must be made applying a rate of 106.75% on the outstanding balance.

(ii) In case of a Liquidity Event:

□ Up to and including the 12th month from the Closing Date: the prepayment must be made applying a rate of 113.5% on the outstanding balance;

□ Between the 12th month and the 24th month, inclusive, counted from the Closing Date: the prepayment shall be made applying a rate of 106.75% on the outstanding balance; and

□ As of the 24th month from the Closing Date: the pre-payment must be made applying the rate of 103.375% on the outstanding balance.

h) Conversion: Creditors of the New Priority DIP Financing will receive Contingent Value Rights in the form of Appendices VI and VIII of the Term Sheet.

i) Other terms and conditions: the contracting of the New Priority DIP Financing is subject to the conditions set out in the New Plan Support Agreement and its annexes, as well as the Term Sheet and the Financial Commitment and the New Restructuring Instruments which will be negotiated and signed according to the usual and market provisions and conditions for this type of financing, including with regard to the payment of commissions and expenses.

6.2.4 Non-Subjection to Judicial Reorganization of New Priority DIP Financing. Pursuant to articles 67 and 69-A and following of the LRF, the Companies Under Reorganization and the Bankruptcy Creditors acknowledge that, in any event and for all legal purposes and effects, the New Priority DIP Financing (as well as any of its accessories, such as interest, charges and fines) is not subject to the Judicial Reorganization or any of its effects, provided that, in the event of conversion of the Judicial Reorganization into bankruptcy, article 84 IB of the LRF shall be observed or, in the event of non-compliance with any of the obligations related to the New Priority

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DIP Financing, its holders may automatically exercise all their rights, measures and actions aimed at collecting the credit of the New Priority DIP Financing under the contracted conditions.

6.2.5 Authorization for the granting of a priority guarantee. The Supporting Creditors, in order to enable the granting of the New Priority DIP Financing, essential for the uplift of the Companies under Reorganization, expressly authorize the sharing and granting of priority over a portion of their guarantees, exclusively in the form and provided that the provisions of the New Plan Support Agreement, Appendix VI and XI of the Term Sheet, and the New Restructuring Instruments.

6.2.6 Judicial Authorization. The Judicial Confirmation of the Restated Plan will serve for all legal purposes and effects as a judicial decision authorizing the contracting of the New Priority DIP Financing, under the terms of article 69-A et seq. of the LRF.

7 Use of Funds from a Qualified Liquidity Event.

7.1 Order of Payments. Subject to the New Plan Support Agreement and subject to the provisions of Appendix VIII of the Term Sheet, upon the occurrence of a Qualifying Liquidity Event, the net proceeds (the value of which, if non-cash, will be determined by an independent investment bank engaged by the Board of Directors of Constellation Holding) arising therefrom shall be initially allocated and distributed as follows:

(i) First, for the cash payment of the New Priority DIP Financing for the adjusted amount as provided in Clause 6.2.3 above and in the New Plan Support Agreement, Term Sheet and its respective attachments;

(ii) Second, for the full, cash payment of the New CAPEX Resources;

(iii) Third, for the full, cash payment of the ALB Guaranteed LC Loan Agreement.

The remaining balance of the net proceeds of the Qualified Liquidity Event, after the priority payments provided for in (i), (ii) and (iii) above ("Net Liquidity Event Proceeds"), shall be distributed as follows:

(i) First, the amount equal to the Debt Conversion Amount, calculated in the manner set forth in Appendices I through IV of the Term Sheet, will be distributed to Class C Shareholders, as applicable;

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(ii) Finally, the remaining amount shall be distributed to Class A Shareholders and Class B Shareholders pro rata in accordance with the provisions of Appendix VIII of the Term Sheet.

8 Debt Restructuring and Settlement.

8.1 Payment of Labor Creditors. All Labor Creditors shall have their Labor Credits paid without the incidence of interest or inflation adjustment within 180 days as of (i) the Confirmation Date; (ii) for Individual Labor Creditors holding Sub-Judice Credits, from the date such credit becomes certain, liquidated, and due; or(iii) for Labor Creditors that are Delayed Creditors, (a) the date their credits are deemed valid through the respective final and unappealable decision, if after the Confirmation Date, (b) voluntarily acknowledged by the Companies under Reorganization, and/or (c) subject to an agreement.

8.2 Payment of Secured Creditors. The differentiation in the restructuring criteria of the Collateral Credits reflects the differentiation in the legal nature of the contractual relations, as already recognized in the Original Plan. In any case, between the Confirmation Date and the Closing Date no interest and/or inflation adjustment shall be incurred on the outstanding balance of any of the Collateral Credits.

8.2.1 Payment of ALB Credits. In view of the nature and origin of the ALB Credits, the payment of the ALB Credits held by the ALB Creditors will fully comply with the provisions of the New Plan Support Agreement and its annexes, as well as Appendices I-A and I-B of the Term Sheet. The payment will be instrumentalized through (i) the execution of the ALB Restructured Loan Agreement; (ii) the ALB Guaranteed LC Loan Agreement; and (iii) only with respect to the Brava Creditors, the issuance of the Subscription Warrants. The terms and conditions of all instruments are summarized below:

8.2.1.1 ALB Restructured Loan Agreement:

(a) Expiration: 12.31.2026.

(b) Initial Amortization. Any cash balance existing in the Reserve Accounts on the Closing Date will be used to repay a portion of the ALB Loans in the following proportions: (i) $15,062,467.14 with respect to the Amaralina Star Term Loans; and (ii) $2,535,123.06 with respect to the Brava Credits.

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(c) Discount. After the initial amortization described in Section 8.2.1.1(b) above, the ALB Credits will be restructured so that the principal balance due by the Companies under Reorganization shall total US$ 500,000,000.00, to be allocated pro rata to the ALB Creditors as follows: (i) US$ 304,630,253.78, with respect to the A/L Credits; and (ii) US$ 195,369,746.22, with respect to the Brava Credits, further observing the outstanding balance of the ALB Secured LC Loan Agreement, on the Closing Date.

(d) Interest and Inflation adjustment. Prior to the Closing Date, the ALB Creditors in the manner set forth in the New Plan Support Agreement, as well as in Appendix I-A of the Term Sheet, shall indicate whether interest will be pre-fixed or post-fixed, subject to the possibilities set forth in the table below. At least three (3) Business Days prior to each interest payment date, Constellation Group shall inform the ALB Creditors and the agent of the ALB Restructured Loan Agreement whether the interest due will be paid in cash or PIK. The interest will be paid or capitalized, as the case may be, on the last business day of March, June, September, and December of each year.

Type of interest rate(cash or PIK at debtor's choice / pre or post fixed at ALB Creditors' choice)	Interest Rate
Post Fixed Interest Rate PIK	☐ SOFR plus 3% per year
PIK Pre-Fixed Interest Rate	☐ 4% per year
Post Fixed Cash Interest Rate	☐ SOFR plus 2% per year
Pre-Fixed Cash Interest Rate	☐ 3% per year

(e) Amortization. The Companies Under Reorganization shall apply the Excess Cash Balance in the amortization of the Restructured ALB Credits, observing the New Plan Support Agreement and its annexes, as well as Appendices I-A and IX of the Term Sheet.

(f) Conversion of Credit into Share Capital Through a Liquidity Event. Upon the occurrence of a Qualifying Liquidity Event, as described in the New Plan Support Agreement and its exhibits and Appendices IA and VIII to the Term Sheet, the entire outstanding balance of the ALB Restructured Loan Agreement will be converted into Class C-1 Shares, in which event they shall be entitled to receive the net proceeds from the Qualified Liquidity Event in the manner set forth in Appendices I-A and VIII of the Term Sheet and Section 7 above.

(g) Guarantees: The collateral provided in the New Plan Support Agreement and its annexes, as well as those provided in Appendix I-A of the Term Sheet, shall be granted.

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(h) Obligations to do and not to do: The obligations to do and not to do established in the New Plan Support Agreement and its annexes, as well as those provided for in Appendix I-A of the Term Sheet, will be observed.

(i) Events of Default. The events of default set forth in the New Plan Support Agreement and its appendices, as well as those set forth in Appendix I-A of the Term Sheet, shall be observed.

(j) Prepayment: The possibility of prepayment shall be observed as established in the New Plan Support Agreement and its annexes, as well as in the Term Sheet.

8.2.1.2 ALB Guaranteed LC Loan Agreement:

(a) Principal Amount: $30,200,000.00, where:

(i) each A/L Creditor will have its pro rata proportion of $24,000,000.00, based on the proportion of the principal amount each A/L Creditor holds in the Laguna Star Term Loans compared to the aggregate principal amount of the Laguna Star Term Loans;

(ii) each Brava Creditor will have its pro rata proportion of $6,200,000.00 based on the proportion of the outstanding principal amount each Brava Creditor holds with respect to the aggregate outstanding principal amount of the Brava Loan Agreement.

(b) Maturity: 12.31.2026 or on the date the proceeds from a Qualifying Liquidity Event are distributed, as per provided in Clause 7 above and in Appendices I-B and VIII of the Term Sheet, whichever occurs first.

(c) Interest and Inflation adjustment. Prior to the Closing Date, the ALB Creditors, in the manner set forth by the New Plan Support Agreement, as well as in Appendix I-B of the Term Sheet, shall indicate whether interest will be pre-fixed or post-fixed, subject to the possibilities set forth in the table below. The interest will be paid in cash on the last business day of March, June, September, and December of each year.

Type of interest rate(cash) pre or post fixed at the choice of the ALB Creditors	☐ Interest Rate
Post-Fixed	☐ SOFR plus 3% per year
Pre-Fixed	☐ 4% per year

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(d) Amortization: There shall be no amortization.

(e) Guarantees. The collateral provided in the New Plan Support Agreement and its annexes, as well as those provided in Appendix I-B of the Term Sheet, including, but not limited to, the Perennial Letter of Credit, shall be granted.

(f) Obligations to Do and Not to Do: The same obligations to do and not to do provided for in the ALB Restructured Loan Agreement shall be observed.

(g) Events of Default: The same events of default of the ALB Restructured Loan Agreement shall be observed, in addition to the assumption of cross default in the event of any default under the ALB Restructured Loan Agreement.

(h) Prepayment: The possibility of prepayment shall be observed as established in the New Plan Support Agreement and its annexes, as well as in the Term Sheet.

8.2.1.3 Subscription Warrants:

(a) On the Closing Date, the Brava Creditors will receive warrants, exercisable at any time and without the need for any payment, which will ensure their holders the right to subscribe for Class B-2 Shares representing twenty-six percent (26%) of the total share capital of Constellation Holding on the Closing Date.

(b) The Warrants may be exercised at any time, except that if not previously exercised, they shall be exercised or terminated, at the discretion of the Brava Creditors, upon the occurrence of a Qualified Liquidity Event. The warrants will be deemed to be exercised upon the occurrence of a Qualifying Liquidity Event if the warrants holder does not elect otherwise. Upon the exercise of the Subscription Warrants, Class B-2 Shares will be received, which will have the same rights and will receive the same treatment as the other shares of Constellation Holding's capital stock, including, but not limited to, the tag along rights stipulated in the New Plan Support Agreement and its annexes, as well as in Appendix VII-A of the Term Sheet.

(c) The warrants will be freely transferable and may be traded separately from the ALB Restructured Loan Agreement, subject to compliance with applicable laws and the New Shareholders Agreement.

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8.2.2 Payment of New Participant 2024 Bonds. In view of the nature and origin of the New Participant 2024 Bonds, the payment of the New Participant 2024 Bonds and the Non-Subject New 2024 Participating Bonds will fully comply with what is stipulated in the New Plan Support Agreement and its attachments, as well as in Appendix II of the Term Sheet. The payment shall be instrumentalized through (i) the conversion of debt into equity of Constellation Holding; and (ii) new senior credit notes, to be issued by Constellation Holding, in the form of an Indenture to be governed by New York law, the terms and conditions of which are summarized below:

(a) Expiration: 12.31.2026.

(b) Discount: The New Participant2024 Bonds Credits and Non-Subject New 2024 Participating Bonds Credits shall be restructured to total $278,300,000.00 on the Closing Date.

(c) Interest and Inflation adjustment. At least three (3) Business Days before each interest payment date, the Constellation Group must inform whether the interest due will be paid incash or PIK, observing the possibilities indicated in the table below. The interest will be paid or capitalized, as the case may be, on the last business day of March, June, September, and December of each year.

Pre-Fixed PIK	☐ 4% per year
Pre-Fixed Cash	☐ 3% per year

(d) Amortization. The Companies Under Reorganization shall apply the Excess Cash Balance in the amortization of the New Bonds 2024 Participant Credits, observing the New Plan Support Agreement and its annexes, as well as Appendices II and IX of the Term Sheet.

(e) Conversion of the Credit into Equity Upon Qualified Liquidity Event: Upon the occurrence of a Qualified Liquidity Event, as described in the New Plan Support Agreement and its attachments, and in the form set forth in Appendix VIII of the Term Sheet, the entire outstanding balance of the New Participant 2024 Bonds shall be converted into Class C-2 Shares, in which event they shall be entitled to receive the net proceeds arising from the Qualified Liquidity Event, in the manner set forth in Appendices II and VIII of the Term Sheet and Section 7 above.

(f) Guarantees: The collateral provided in the New Plan Support Agreement and its annexes, as well as those provided in Appendix II of the Term Sheet, will be granted.

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(g) Obligations to do and not to do: The obligations to do and not to do established in the New Plan Support Agreement and its annexes, as well as those provided for in Appendix II of the Term Sheet, will be observed.

(h) Events of Default. The events of default set forth in the New Plan Support Agreement and its appendices, as well as those set forth in Appendix II of the Term Sheet, will be observed.

(i) Prepayment: The possibility of prepayment shall be observed as established in the New Plan Support Agreement and its annexes, as well as in the Term Sheet.

8.2.3 Payment of New 2024 Non-Participating Bonds Credits. In view of the nature and origin of the New 2024 Non-Participating Bonds, the payment of the New 2024 Non-Participating Bonds will fully comply with the provisions of the New Plan Support Agreement and Appendix IV of the Term Sheet. The payment will be instrumentalized by means of new senior credit notes, issued by Constellation Holding, in the form of an Indenture to be governed by New York law, the terms and conditions of which are summarized below:

(a) Expiration: 12.31.2050.

(b) Discount: The New 2024 Non-Participating Bonds Credits will be restructured, so that they will now total the amount of $1,888,434.00, on the Closing Date.

(c) Interest and Inflation adjustment. Interest of 0.25% PIK will be charged. The interest will be capitalized on the last business day of March, June, September, and December of each year.

(d) Conversion of the Credit to Equity Upon Qualified Liquidity Event: Upon the approval of a Qualified Liquidity Event, as described in the New Plan Support Agreement, as well as in the form of Appendix VIII of the Term Sheet, the entire outstanding balance of the New 2024 Non-Participating Bonds shall be converted into Class C-4 Shares, in which event they shall be entitled to receive the net proceeds arising from the Qualified Liquidity Event in the manner set forth in Appendices IV and VIII of the Term Sheet and Clause 7 above.

(e) Guarantees: The collateral provided in the New Plan Support Agreement and its annexes, as well as those provided in Appendix IV of the Term Sheet, shall be granted.

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(f) Obligations to do and not to do: The obligations to do and not to do established in the New Plan Support Agreement and its annexes, as well as those provided for in Appendix IV of the Term Sheet, shall be observed.

(g) Events of Default. The events of default set forth in the New Plan Support Agreement and its appendices, as well as those set forth in Appendix IV of the Term Sheet, shall be observed.

(h) Prepayment: The possibility of prepayment shall be observed as established in the New Plan Support Agreement and its annexes, as well as in the Term Sheet.

8.2.4 Payment of Restructured Bradesco Credits. In view of the nature and origin of the Restructured Bradesco Credits, Bradesco's payment will fully observe the stipulations of the New Plan Support Agreement and its attachments, as well as Appendix III of the Term Sheet. The payment will be instrumentalized through the conclusion of amendment and consolidation instruments of the Bradesco Loan Agreement and the Non-Subject Bradesco Agreement, whose terms and conditions are summarized below :

(a) Expiration: 12.31.2026.

(b) Discount: The restructured Bradesco Credits will be restructured, so that they will total the amount of $42,700,000.00, on the Closing Date.

(c) Interest and Inflation adjustment. Prior to the Closing Date, Bradesco, in the form of the Plan Support Agreement, as well as Appendix III of the Term Sheet, shall indicate whether the interest will be pre-fixed or post-fixed, observing the possibilities indicated in the table below. At least three (3) Business Days prior to each interest payment date, Constellation Group shall inform Bradesco whether the interest due will be paid in cash or PIK. The interest will be paid or capitalized, as the case may be, on the last business day of March, June, September, and December of each year.

Type of interest rate(cash or PIK at the borrower's choice / pre or post fixed at Bradesco's choice)	Interest Rate
Post Fixed Interest Rate PIK	☐ SOFR plus 3% per year
PIK Pre-Fixed Interest Rate	☐ 4% per year
Post Fixed Cash Interest Rate	☐ SOFR plus 2% per year
Pre-Fixed Cash Interest Rate	☐ 3% per year

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(d) Amortization. The Companies Under Reorganization shall apply the Surplus Cash Balance in the amortization of the Restructured ALB Credits, observing the New Plan Support Agreement and its annexes, as well as Appendices III and IX of the Term Sheet.

(e) Conversion of the Credit into Equity Upon a Liquidity Event: Upon the occurrence of a Qualified Liquidity Event, as described in the New Plan Support Agreement and its annexes, as well as in the form of Appendix VIII of the Term Sheet, the total outstanding balance of the Restructured Bradesco Credits shall be converted into Class C-3 Shares, in which case it shall be entitled to receive the net proceeds resulting from the Qualified Liquidity Event, in the manner set forth in Appendices III and VIII of the Term Sheet and in Section 7 above.

(f) Guarantees: The collateral provided in the New Plan Support Agreement and its annexes, as well as those provided in Appendix III of the Term Sheet, will be granted.

(g) Obligations to do and not to do: The obligations to do and not to do established in the New Plan Support Agreement and its annexes, as well as those provided for in Appendix III of the Term Sheet, shall be observed.

(h) Events of Default. The events of default set forth in the New Plan Support Agreement and its appendices, as well as in Appendix III of the Term Sheet, shall be observed.

(i) Prepayment: The possibility of prepayment shall be observed as established in the New Plan Support Agreement and its annexes, as well as in the Term Sheet.

8.3 Payment to Unsecured Creditors. All Unsecured Credits, with the exception of the form of payment set forth in Clause 8.3.1, as well as the provisions contained in Clauses 8.5, 8.6 and 8.7 below, will be paid without the incidence of interest or inflation adjustment, by December 31, 2050.

8.3.1 Payment of the 2030 Bonds Credits. In view of the nature and origin of the 2030 Bonds Credits, the payment of the 2030 Bonds Credits will fully comply with what is stipulated in the New Plan Support Agreement and its annexes, as well as in Appendix V of the Term Sheet. The payment will be instrumented by means of new credit notes, issued by Constellation Holding, in the form of an Indenture to be governed by New York law, the terms and conditions of which are summarized below:

(a) Expiration: 12.31.2050.

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(b) Discount: The 2030 Bonds Credits will be restructured, so that they will total the amount of US$ 3,111,566.00, on the Closing Date.

(c) Interest and Inflation adjustment. Interest of 0.25% PIK will be charged. The interest will be capitalized on the last business day of March, June, September, and December of each year.

(d) Credit Conversion Upon a Liquidity Event: Upon the occurrence of a Qualified Liquidity Event, as described in Appendix VIII of the Term Sheet, the entire outstanding balance of the 2030 Bonds Credits shall be converted into Class C-4 Shares, in which case it will be entitled to receive the net proceeds resulting from the Qualified Liquidity Event, as set forth in Appendices V and VIII of the Term Sheet and Clause 7 above.

(e) Prepayment: The possibility of prepayment shall be observed as established in the New Plan Support Agreement and its annexes, as well as in the Term Sheet.

8.4 Payment of ME/EPP Creditors. All ME/PME Credits, subject to the provisions contained in Sections 8.5, 8.6 and 0 below, will be paid, without the incidence of interest or inflation adjustment, within two (2) years from the Confirmation Date.

8.5 Payment of Suppliers' Credits. The payment of the Supplier Credits held by the Supplier Creditors will be paid without the incidence of interest or inflation adjustment and in up to two (2) years counted from the Confirmation Date, except for the events set forth in Clauses 8.6 and 8.7 below.

8.6 Payment of Partner Creditors. The Partner Creditors that do not have any other specific payment condition set forth in this Restated Plan, even if they are Delayed Creditors, will be paid without the incidence of interest or inflation adjustment within one hundred and eighty (180) days as of the Confirmation Date. For the sake of clarity: partial payments may or may not be made by the Companies under Reorganization, provided that the full payment is made within one hundred and eighty (180) days from the Confirmation Date.

8.7 Payment of Unliquidated Credits. All Unliquidated Credits, including those that are also classified as Delayed Credits, shall be paid without interest or indexation until December 31, 2050.

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8.8 Payment of Delayed Credits. All Delayed Credits, if not otherwise provided for in this Restated Plan, will be paid without interest or monetary adjustment until December 31, 2050.

8.9 Payment of Credits held by Subrogatory Creditors. The Sub-rogated Credits held by Subrogated Creditors will be paid on the same terms as provided in this Restated Plan for payment of the respective Subrogated Credit.

9 Governance Issues Arising from the Debt Restructuring and Debt to Equity Conversion of Constellation Holding.

9.1 Corporate Chart Post-Closing Date. Once the debt of the Companies under Reorganization has been converted into share capital or securities of Constellation Holding, the corporate structure of Constellation Holding shall reflect the following composition:

- Legacy Shareholders: 27.0% (represented by Class A Shares);

- Creditors of the New Participating 2024 Bonds: 47.0% (represented by Class B-1 Shares); and

- Subscription Warrants Holders: if exercised, 26.0% (represented by the right to purchase Class B-2 Shares).

9.1.1 The composition of the new equity interests detailed in Clause 9.1 above, does not reflect the conversion of the new convertible debt or the Contingent Value Rights, but reflects the exercise, in full, of the warrants. For the sake of clarity, if the warrants are not exercised, the pro forma allocation of the new equity interests will be as follows:

- Legacy Shareholders: 36.5% (represented by Class A Shares);

- Creditors of the New Participating 2024 Bonds: 63.5% (represented by Class B-1 Shares).

9.2 No Succession. In all provisions of this Restated Plan in which there is a provision for the conversion of debt into share capital or securities of Constellation Holding, said conversion shall occur, for any and all purposes and effects, so that there is no succession or liability of the Creditors for the debts of any nature of the Companies under Reorganization to third parties, due to the mere conversion of the debt into capital stock, including due to the exercise of the Subscription Bonus or the Contingent Value Rights, as provided in §3 of article 50 of the LRF, observed in any the New Plan Support Agreement and its annexes, as well as the Term Sheet.

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9.3 Rights Granted to Legacy Shareholders. On the Closing Date, LuxCo or the Cayman Trust, as the case may be, and CIPEF, will receive Contingent Value Rights in the manner set forth in the New Plan Support Agreement and its attachments, and the Term Sheet.

9.4 Restrictions concerning LuxCo. On the Closing Date, under penalty of failure to comply with this Restated Plan, any new interest, rights or corporate titles to be attributed to LuxCo will be held in a trust constituted in accordance with the laws of the Cayman Islands, provided that such interest, rights or titles shareholders will remain under the exclusive ownership of Trust Cayman until the provisions of the documents governing Trust Cayman and the New Plan Support Agreement, the Term Sheet and its respective annexes are fully complied with.

9.5 New Shareholders' Agreement. The New Shareholders' Agreement will be entered into between (i) Constellation Holding, (ii) Class A Shareholders, (iii) Class B Shareholders; (iv) holders of the Subscription Warrants and (v) the representatives of the holders of the debts that will be convertible into Class C-1 Shares, Class C-2 Shares, Class C-3 Shares, and Class C-4 Shares. For all legal purposes, Class A Shares, Class B-1 Shares, Class B-2 Shares, Class C-1 Shares, Class C-2 Shares, Class C-3 Shares and Class C-4 Shares will constitute the entire capital of Constellation Holding after the Closing Date and will have all the same rights and privileges, subject to the other provisions established in the New Plan Support Agreement and its annexes, as well as in Appendix VII-A of the Term Sheet.

9.5.1 Main Aspects of the New Shareholders' Agreement. The New Shareholders' Agreement, which shall be governed by the laws of Luxembourg, shall contain, among others specified in Appendix VII-A of the Term Sheet, the following provisions:

(i) All Shareholders will be entitled to pro rata tag along rights in respect of any sale of more than 50% of the share capital of Constellation Holding (assuming conversion of the entire Subscription Warrants) by a person or group in a single transaction or series of related transactions, except for affiliates or among the then-existing Shareholders or holders of Contingent Value Rights (excluding affiliates or the Shareholders or holders of Contingent Value Rights who, together with their affiliates, hold less than 3% of the total equity interest of Constellation Holding (assuming full conversion of Subscription Warrants, but excluding any equity interest and Subscription Warrants that are acquired through said acquisition) immediately prior to said acquisition);

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(ii) all equity holders (including shares, warrants, Contingent Value Rights and debt conversion instruments) may be required to sell their holdings as a result of a Qualified Liquidity Event, as described in Appendix VIII of the Term sheet, subject to the conditions of the New Shareholders' Agreement;

(iii) Shareholders (including the holders of warrants) will have preemptive rights to subscribe for any new issues of shares or any other securities convertible into shares;

(iv) No restrictions on the transfer of shares, other than those described in the New Plan Support Agreement and its appendices and Term Sheet, will be included in the New Shareholders Agreement, including, without limitation, any obligation to grant any Shareholder a right of first offer or right of refusal;

(i) Except for preemptive rights and rights associated with certain payments, subject to the provisions of the Term Sheet, in particular its Appendix VII-A, there will be no anti-dilution protections for any shares, Contingent Value Rights, Subscription Warrants or any other rights to acquire shares of Constellation Holding, held or to be issued on or after the Closing Date, for any person or entity.

9.6 Composition of the Board of Directors. The Board of Directors of Constellation Holding as of the Closing Date shall have its composition, fomr of election, investiture requirements and prohibitions in the form and under the conditions set forth in Appendix VII-B of the Term Sheet, including, but not limited to:

(i) On the Closing Date: three (3) directors appointed by the Ad Hoc Group; it being understood that each member of the Ad Hoc Group will separately appoint one of the three (3) directors; one (1) director appointed by the lenders of the New Priority DIP Financing; Mr. Jaap Jan Prins; and two (2) Luxembourg resident directors appointed by a third party company appointed by the Ad Hoc Group;
(ii)
(iii) After the Closing Date, for so long as LuxCo or the Cayman Trust is a Class A Shareholder: four (4) directors designated by a majority of the Class B-1 Shareholders; one (1) director designated by a majority of the Class B Shareholders; and two (2) Luxembourg resident directors designated by a third party company appointed by a majority of the Class B-1 Shareholders;
(iv)

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(v) After the Closing Date, when LuxCo or the Cayman Trust is no longer a Class A Shareholder: Five (5) directors designated by a majority of the Class B-1 Shareholders; one (1) director designated by a majority of the Class B Shareholders; two (2) Luxembourg resident directors designated by a third party company designated by the majority of the Class B-1 Shareholders; and for so long as the purchaser of the LuxCo Class A Shares and/or the Cayman Trust holds Class A Shares representing at least 10% of the Share Capital of Constellation Holding, one (1) director designated by a majority of the Class A Shareholders.
(vi)
9.6.1 Nomination. Any candidates for the Board of Directors of Constellation Holding must be approved and meet the criteria set forth in the New Plan Support Agreement and its attachments, as well as in Appendix VII-B of the Term Sheet. Each Shareholder agrees to vote for the candidate nominated by each of the other Shareholders for the composition of the Board of Directors of Constellation Holding. The Chairman of the Board of Directors will be appointed by a majority of the members of the Board of Directors.

9.6.2 Sealing. No candidate shall be nominated or appointed to the Board of Directors if his or her status as a director of Constellation Holding prohibits Constellation Holding from bidding for new contracts.

9.6.3 Governance. The management of Constellation Holding shall observe in the conduct of its activities, the best practices of corporate governance, in addition to all the terms, conditions, limitations and restrictions of this Restated Plan, the New Plan Support Agreement and the Term Sheet.

9.6.4 Restrictions on Assignment. From and after the Closing Date, any transferee of Class A Shares or Contingent Value Rights held by LuxCo (or the Cayman Trust, as the case may be) must become a party to the New Shareholders Agreement. The effectiveness of any transfer of LuxCo's (or the Cayman Trust's) equity interest will be subject to compliance with the terms and conditions of the New Shareholders Agreement.

10 Additional rules to be observed for debt settlement.

10.1 Payment Method. In compliance with the New Plan Support Agreement and its annexes, as well as the Term Sheet, as well as the New Restructuring Instruments, and except for Individual Labor Creditors holding Sub-Judice Credits, who will always receive through judicial deposit in the records of the respective processes, the amounts owed to the Bankruptcy Creditors will be paid through (i) direct transfer of funds or deposit in the bank account of the respective Creditor;

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or (ii) by payment order to be withdrawn directly from the cash of the financial institution by the respective Creditor, as the case may be, the proof of said financial transaction serving as proof of the settlement of the respective payment. It is certain that, the Unsecured Creditors and ME/EPP Creditors must, within ten (10) days from the Confirmation Date, inform their respective bank accounts for the purposes provided for in this Clause, by means of written communication addressed to any of the Debtors, pursuant to Clause 12.3 below, given that payments that are not made in a timely manner due to the Unsecured Creditors and ME/EPP Creditors not having informed their bank accounts within that period shall not be considered as an event of non-compliance of the Restated Plan. In this case, at the Debtors' discretion, payments due to Unsecured Creditors and ME/EPP Creditors who have not informed their bank accounts may be made in court, at their own expense, who shall be liable for any aggregate costs due to the use of the judicial process for deposit. There shall be no incidence of interest, fines, default charges or non-compliance with this Plan if the payments have not been made because the Unsecured Creditors and the ME/EPP Creditors have not timely informed their bank accounts.

10.2 Increases in the amounts of Credits by judicial decision or agreement. In the event of any increase in the value of any Credit resulting from a final judicial decision or agreement between the parties, the increased value of the Credit shall be paid in the manner provided for in this Plan, from the final judgment of the judicial decision or execution of the agreement between the parties. In this case, the rules for the payment of the increased value of such Credits shall only be applicable from said final decision or from the date of the execution of the agreement between the parties.

10.3 Tax Issues.

10.3.1 The Companies Under Reorganization and the Bankruptcy Creditors agree to work together to implement the transactions contemplated in this Restated Plan, in the New Plan Support Agreement, in the Term Sheet and/or in the New Instruments of Restructuring in the most efficient manner from a tax and legal point of view valid and feasible (including for the purposes of preserving any favorable tax aspects attributable to Constellation Holding), provided that this Restated Plan, the New Plan Support Agreement, the Term Sheet and/or the New Restructuring Instruments are observed.

10.3.2 Subject to the provisions of the New Plan Support Agreement, the Term Sheet and its related annexes, all payments made by or on behalf of Constellation Holding with respect to the Supporting Creditors and the New DIP Financing Creditors, any other creditor that may be so qualified under the New Restructuring Instruments or other applicable beneficiary as provided for

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in the New Restructuring Instruments, including any PIK or deferred payment amounts and advisor payments, must be made in full so that the amount payable will be increased, as necessary, so that, after any deduction or withholding required by applicable law, each Creditor or applicable beneficiary receives an amount equal to the sum it would have received had there been no direct tax deduction or withholding.

11 Effects of the Restated Plan.

11.1 Binding of the Restated Plan. Except for the provisions of Clause 11.12 below, from the Judicial Confirmation of the Restated Plan, the provisions of this Restated Plan are binding on the Companies under Reorganization (subject to obtaining any necessary approvals mentioned in Clause 3.3 above), their Legacy Shareholders, the Bankruptcy Creditors and respective Creditors Assignees and successors, pursuant to article 59 of the LRF. The Approval of the Restated Plan, together with the Judicial Confirmation of the Restated Plan, constitutes authorization and binding consent granted by the Creditors so that the Debtors may, within the limits of applicable law, including the LRF, adopt any and all measures that are appropriate and necessary for the implementation of the measures provided for in this Restated Plan and in the New Restructuring Instruments, including obtaining a judicial, extra-judicial or administrative measure (either in accordance with the LRF or under any procedure of a main or incidental nature) pending or to be initiated by the Constellation Group, any of the representatives of the Debtors or any representative of the Judicial Reorganization in any jurisdiction other than Brazil for the purpose of conferring force, validity and effect on the Restated Plan and its implementation. For the sake of clarity, the Creditors that approve the Restated Plan and the Legacy Shareholders expressly declare that they undertake to approve any other instrument of composition in another jurisdiction formalized by the Companies Under Reorganization, provided that such instrument reflects the terms and conditions of this Restated Plan, of the New Plan Support Agreement, Term Sheet and their respective annexes, subject to reasonableness, good faith, as well as the reservations and qualifications contained in the New Plan Support Agreement and Term Sheet, in order to implement the terms of this Restated Plan.

11.2 Amendments, Changes or Modifications to the Plan. After the Judicial Confirmation of the Restated Plan, amendments, alterations or modifications to the Restated Plan may be proposed at any time by the Companies Under Reorganization, provided that such amendments, alterations or modifications are accepted by the Bankruptcy Creditors, pursuant to the LRF. Amendments to the Plan, as long as approved in accordance with the LRF, oblige all creditors subject to it, regardless of their express agreement with subsequent amendments.

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11.3 Novation. This Restated Plan implies novation of the Bankruptcy Credits, which shall be paid in the manner set forth in this Restated Plan. By virtue of said novation, all obligations, covenants, financial indices, early maturity hypotheses, as well as other obligations and guarantees related to Bankruptcy Credits that are incompatible with the conditions of this Restated Plan will no longer be applicable, being fully replaced by the provisions contained in this Restated Plan, in the New Plan Support Agreement, in the Term Sheet and, after the Closing Date, in the New Restructuring Instruments.

11.4 Ratification of Acts and Consent. Except as provided in Section 11.12 below, the Approval of the Restated Plan by the Meeting of Creditors, together with the Judicial Confirmation of the Restated Plan, will represent the agreement and ratification of the Companies under Reorganization, the Joint Provisional Liquidators and the Bankruptcy Creditors of all acts performed and obligations contracted (which are in accordance with the New Plan Support Agreement, Term Sheet and Restated Plan) exclusively for the full implementation and consummation of this Restated Plan and Judicial Reorganization, including the execution of the New Plan Support Agreement, Term Sheet and New Restructuring Instruments and the filing of an Ancillary Proceeding Abroad, whose acts are expressly authorized, validated and ratified for all legal purposes, with the exception that in relation to the Companies under Reorganization incorporated under the Law of the British Virgin Islands and Cayman Islands, subject to Ancillary Proceeding Abroad, the acts of the Companies under Reorganization, acting through their Joint Provisional Liquidators or in any other way, may eventually require the approval of the British Virgin Islands Courts or the Cayman Islands Courts (as applicable) until the Ancillary Proceeding Abroad. The Bankruptcy Creditors are fully aware that the values, duration, terms and conditions of satisfaction of their Bankruptcy Credits are amended by this Restated Plan. The Bankruptcy Creditors, in the exercise of their autonomy of will, declare that they expressly agree with the aforementioned changes, under the terms provided for in this Restated Plan, giving up the receipt of any additional amounts, even if provided for in the instruments that gave rise to the Bankruptcy Credits or in judicial, administrative or arbitration decision, as they are convinced that this Restated Plan reflects economic and financial conditions that are more favorable to them than the maintenance of the original payment conditions of their Bankruptcy Credits.

11.4.1 The inclusion in this Restated Plan, in the New Plan Support Agreement and in the Term Sheet of the terms and conditions for restructuring the Non-Subject ALB Credits, Non-Subject Bradesco Credits, New Bonds 2024 Credits Non-Subject Participants and, if contracted, the New Financing Priority DIP, does not imply abdication, desistence, waiver, acceptance or any other form of waiver on the part of the respective Creditors with respect to the extra-bankruptcy of said

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Credits Not Subject to Judicial Reorganization, which remain with all prerogatives, rights, terms and applicable conditions.

11.5 Powers of the Constellation Group to implement the Restated Plan. After the Judicial Confirmation of the Restated Plan, the Constellation Group shall (and, therefore, is authorized by the Bankruptcy Creditors) adopt all necessary measures to (i) if necessary, submit the Approval of the Restated Plan to an Ancillary Proceeding Abroad, with the purpose of giving effect to the Restated Plan in the United States and in the British Virgin Islands or the Cayman Islands, under the terms of the applicable legislation, (ii) initiating and/or proceeding with other judicial, extrajudicial or administrative proceedings, whether of insolvency or otherwise, in jurisdictions other than the Federative Republic of Brazil, including the United States and the British Virgin Islands, as necessary, (iii) pay the costs of the Joint Provisional Liquidators, as well as the costs and expenses related to the restructuring as provided for in the New Plan Support Agreement and in the Term Sheet, (iv) request the lifting of protests and/or records of restriction of credit against the Companies under Reorganization, related to the non-payment of the Bankruptcy Credits in their original conditions, as well as (v) take all necessary measures, in accordance with applicable Brazilian and/or foreign legislation, to comply with the Restated Plan, the New Agreement Plan Support and Term Sheet. The Overseas Ancillary Process may not change the terms and conditions of this Restated Plan.

11.6 Extinction of Shares. Subject to the provisions of Clause 11.12 below, the Creditors, as of the Judicial Confirmation of the Restated Plan, may no longer, in relation to their respective Bankruptcy Credits (i) except as provided in the LRF, file and/or continue any measures in this jurisdiction or in any other, related to any and all dispute, claim, cause of action, whether previously identified or not, known or not, including any claims attributed to the Companies under reorganization that the Creditors may have (either individually or collectively) against the Companies under reorganization or Joint Provisional Liquidators; (ii) execute against the Companies under reorganization any judgment, judicial or administrative decision or arbitration award related to any Bankruptcy Credit; (iii) continue to take any adverse measures and/or actions, in any jurisdiction, notably those in progress under the jurisdiction of the United States of America and the British Virgin Islands, against the Debtors or the Joint Provisional Liquidators; (iv) pledge any assets of the Debtors to satisfy their Bankruptcy Credits or perform any other restrictive act against such assets; (v) create, improve or execute any real guarantee on the Companies under reorganization' assets and rights to ensure the payment of their Bankruptcy Credits; (vi) claim any right of compensation against the Debtors in relation to any Bankruptcy Credit; (vii) seek satisfaction of its Bidding Credits by any other means; and (viii) maintain protests or credit restriction records against the Companies under reorganization, provided they

are related to the non-payment of Bankruptcy Credits in their original conditions. All court enforcement against Debtors related to Bankruptcy Credits shall be terminated and existing liens and consents shall be discharged.

11.7 Discharge. Except for the provisions of Clause 11.12 below, payments made in the manner established in this Restated Plan and/or which have already been made in the form of the Original Plan will, when carried out in full, result in (full compliance with this Restated Plan and/or the Original Plan) , automatically and independently of any additional formality, the full, irrevocable and irreversible discharge of all Bankruptcy Credits of any type and nature against the Companies Under Reorganization and their controllers and guarantors, including interest, inflation adjustment, penalties, fines and indemnities. Upon the occurrence of the discharge, the Bankruptcy Creditors shall be deemed to have been discharged, cleared and/or waived in full to any and all Credits, and can no longer claim them, against the Companies under reorganization, controlled, subsidiary, affiliate, associate, as well as other companies belonging to the same corporate and economic group, and their officers, directors, shareholders, partners, agents, Joint Provisional Liquidators, employees, representatives, guarantors, accommodation parties, guarantors, successors and Subrogatory Creditors and Assignee Creditors by any way.

11.8 Compensation. The Bankruptcy Creditors may not, under any circumstances, offset, after the Petition Date, the Bankruptcy Credits they hold against any credits held by the Companies under Reorganization against them, in compliance with the provisions of Clause 11.4.1.

11.9 Disclaimer and Waiver of Exempt Parties. From the Approval of the Restated Plan, and subject to the occurrence of the Closing Date in relation to the Supporting Creditors, the Parties expressly acknowledge and exempt the Exempt Parties, which have acted in accordance with applicable laws and regulations, from any and all liability for the acts performed and obligations related to or in connection with the Judicial Reorganization and/or the Ancillary Proceeding Abroad, including the preparation of the Judicial Reorganization and/or the Ancillary Proceeding Abroad and the negotiation and documentation of the Restated Plan (including the preparation of the New Restructuring Instruments, the negotiation and documentation of the Restated Plan and, in relation to the Joint Provisional Liquidators, any matter arising out of or incidental to the Ancillary Proceeding Abroad), occurred before the Closing Date, granting the Exempt Parties broad, shallow, general, irrevocable and irreversible discharge of all material or moral rights and claims that may arise from said acts in any capacity to the extent that such releases are permitted by applicable law, with the exception of the following ("Non-Exempt Acts"): (i) acts committed by gross negligence, fraud or intent, (ii) the execution of the Restated Plan, the New Plan Support Agreement, the Term Sheet and its respective annexes and the New Restructuring Instruments,

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which remain fully enforceable against all the applicable parties, in accordance with their respective terms, (iii) any material misrepresentations or omissions with respect to information about any Parties or their affiliates that are relevant to the Judicial Reorganization, the documents referring to the Cayman Trust and any documents referenced or included therein, and, finally, the New Instruments Documents of Restructuring and (iv) any breach, without limitation, of the Restated Plan, the New Plan Support Agreement, the documents relating to Trust Cayman, the Term Sheet and their respective annexes and the New Restructuring Instruments, of any protocols made in connection with Recovery Court and any other documents related to the Restated Plan, the New Plan Support Agreement, the documents referring to Trust Cayman, the Term Sheet and their respective annexes and the New Restructuring Instruments, including the declarations, guarantees and covenants, regardless of when such violation is discovered. As of the Approval of the Restated Plan, and subject to the occurrence of the Closing Date in relation to the Supporting Creditors, the Parties expressly and irrevocably waive, to the extent permitted by applicable law, any claims, actions or rights to file, promote or claim, judicially or extrajudicially, on any account and without reservations, compensation for damages and/or other actions or measures against the Exempt Parties, known or unknown, in relation to the acts performed and obligations assumed by the Released Parties under the Judicial Reorganization and any documents related to the Restated Plan, the New Plan Support Agreement, the documents relating to Trust Cayman, the Term Sheet and their respective annexes and the New Restructuring Instruments, provided that its performance was within the limits of applicable law, including any matter arising out of or incidental to the Ancillary Proceeding Abroad and in relation to the Joint Provisional Liquidators (with the exception of Non-Exempt Acts). The Approval of the Restated Plan also represents the agreement of the Bankruptcy Creditors with the payment of the costs of the Joint Provisional Liquidators.

11.10 Formalization of Documents and Other Measures. The Companies Under Reorganization undertake to perform all acts and sign all contracts and other documents that, in form and substance, are necessary or adequate for the fulfillment and implementation of this Restated Plan and related obligations.

11.11 Assignment and transfer of Bankruptcy Credits.

11.11.1 None of the Supporting Creditors may, until the Closing Date, assign their Bankruptcy Credits to third parties, except as provided for in the New Plan Support Agreement and in the Term Sheet.

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11.11.2 This Restated Plan, the New Plan Support Agreement and/or the Term Sheet shall in no way be interpreted as preventing Supporting Creditors from acquiring additional Bankruptcy Credits, provided that any Supporting Creditor acquiring Bankruptcy Credits until the Closing Date does so in accordance with the provisions of the New Plan Support Agreement and Term Sheet.

11.11.3 The Bankruptcy Creditors may assign or transfer their Bankruptcy Credits, provided that they do so under the following conditions: (i) the assignment is notified to the Companies Under Reorganization at least 10 Business Days in advance of the payment dates; and (ii) the notification is accompanied by proof that the Assigned Creditors have received and confirmed the receipt and acceptance of this Restated Plan, recognizing that the Bankruptcy Credit assigned, whether by law or voluntary adhesion, is subject to the effects of this Restated Plan, observed, with regard to Supporting Creditors, the rules defined in the New Plan Support Agreement, in the Term Sheet and its respective annexes.

11.11.4 The Debtors are under no obligation to issue any document or publicly disclose any information for the purpose of allowing an Bankruptcy Creditor to transfer any of its Bankruptcy Credits.

11.11.5 The terms of any confidentiality agreements signed by the Companies under Reorganization with third parties will remain valid and effective in their original terms, not replacing this Restated Plan, the New Plan Support Agreement or the Term Sheet any rights or obligations arising from such confidentiality agreements.

11.11.6 Any transfer in violation of these provisions and the New Plan Support Agreement and Term Sheet will be considered void ab initio.

11.12 Subsequent Milestones. The New Plan Support Agreement provides for the achievement of Subsequent Milestones. The deadline for achieving Subsequent Milestones may be extended in the form of Section 12 of the New Plan Support Agreement. Notwithstanding the provisions of this Restated Plan, especially Clauses 11.1, 11.3, 11.4, 11.6, 11.7 and 11.9 above, in case of non-attainment of any of the Subsequent Milestones, after extensions if applicable, the consequences set forth in the New Plan Support Agreement shall apply, subject to the effectiveness and validity of the acts regularly performed until then, under this Restated Plan and/or the Original Plan, as applicable.

12 General Provisions.

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12.1 Return to Status Quo Ante. In the event of non-compliance with this Restated Plan that causes the conversion of the Judicial Reorganization into bankruptcy, the Creditors will have reconstituted their rights and guarantees under the conditions originally contracted, except for the acts validly performed within the scope of this Judicial Reorganization, which includes any payments made, the issuance of debt securities and guarantees granted under the Original Plan and/or the Restated Plan, as well as the New Priority DIP Financing.

12.2 Conclusion of the Judicial Reorganization. In attention to article 61 of the LRF, considering that two (2) years have elapsed since the judicial ratification of the Original Plan, the supplementary supervision period of this Judicial Reorganization shall be closed after the Closing Date is verified and informed in the records.

12.3 Communications. All notifications, requests, orders and other communications to the Companies Under Reorganization, required or permitted by this Restated Plan, to be effective, must be made in writing and will be considered carried out when (i) sent by registered mail, with acknowledgment of receipt, or by courier, and actually delivered or (ii) sent by e-mail or other means, when actually delivered and confirmed. All communications shall be addressed as follows, except as otherwise expressly provided in this Restated Plan, or as otherwise informed by the Constellation Group:

Galdino & Coelho Advogados

Rua João Líra, 144, Leblon

Rio de Janeiro, RJ

CEP: 22430-210

Att: Flavio Galdino

Phone: +55 21 3195-0240

Email: constellation@gc.com.br

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12.4 Financial Charges. Except in the cases expressly provided for in the Original Plan and/or in this Restated Plan, no interest or inflation adjustment will be applied to the value of the Bankruptcy Credits.

12.5 Credits in Foreign Currency. Credits denominated in foreign currency shall be kept in the original currency for all legal purposes, in accordance with the provisions of article 50, paragraph 2, of the LRF. For the purposes of calculating limit values and quorums provided for in this Restated Plan, Bankruptcy Credits denominated in foreign currency will be converted into reais based on the closing quotation of the Reais exchange selling rate, available at SISBACEN - Bank Information System Central do Brasil, PTAX-800 transaction on the Confirmation Date, unless otherwise provided in this Restated Plan, in the New Plan Support Agreement or in the Term Sheet.

12.6 Credits not subject to Judicial Reorganization. The Credits Not Subject to Judicial Reorganization that may be paid under the payment conditions provided for in this Restated Plan and/or in the Appendices of the Term Sheet maintain, for all purposes and rights, their extra-bankruptcy nature.

12.7 Divisibility of Restated Plan Forecasts. In the event any term or provision of the Restated Plan is deemed invalid, null or ineffective by the Reorganization Court, the remaining terms and provisions of the Restated Plan shall remain valid and effective, except if such partial invalidity of the Restated Plan jeopardizes the ability to comply with it.

12.8 Accomplished Acts and Facts Resulting from the Original Plan. The Companies Under Reorganization and the Bankruptcy Creditors recognize that the Original Plan generated acts and faits accompli, whose relevant clauses were not reproduced in this Restated Plan, which does not affect its validity and effectiveness.

12.9 Applicable Law. The rights, duties and obligations arising from this Restated Plan shall be governed, interpreted and executed in accordance with the laws in force in the Federative Republic of Brazil, also respecting the laws applicable to the Credits, the New Plan Support Agreement, the Term Sheet and the New Restructuring Instruments.

12.10 Election of Jurisdiction. All controversies or disputes arising out of or in connection with this Restated Plan and governed by the LRF shall be settled by the Reorganization Court. Controversies or disputes that arise or are related to the New Plan Support Agreement, the Term

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Sheet and the New Restructuring Instruments will be settled under the terms established in the respective instruments.

Rio de Janeiro, March 24, 2022.

(Signatures on the next page)

[There appears footer with the following content on all pages]
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This was the full content of the document that I faithfully translated, verified and attest. This translation is not a judgment on the form, authenticity and/or content of the document. Lucas Livingstone Felizola Soares de Andrade, CPF (Federal Individual Taxpayers' Register) 009.109.715-01, enrollment JUCESP 1879. São Paulo, 04/08/2022.//

THIS DOCUMENT IS DIGITALLY SIGNED.

For verification of the digital signature please access https://www.portaldeassinaturas.com.br/VerificadorAssinaturas/Verificador and enter the 16-digit code informed on the margin of this document.//

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O(s) nome(s) indicado(s) para assinatura, bem como seu(s) status em 08/04/2022 é(são) :

☑ Lucas Livingstone Felizola Soares de Andrade - 009.109.715-01
em 08/04/2022 17:03 UTC-03:00
Tipo: Certificado Digital

SCHEDULE 5

THE RJ PLAN AMENDMENT TERM SHEET

EXECUTION

Constellation Oil Services Holding S.A.

RJ Plan Amendment Term Sheet

*The following term sheet ("**Term Sheet**") summarizes the key terms of a consensual restructuring for Constellation Oil Services Holding S.A. ("**Constellation Holding**") and its direct and indirect subsidiaries (jointly, the "**Company**" or "**Company Parties**"). This Term Sheet is attached as an exhibit to the Amended and Restated Judicial Reorganization Plan of Constellation Group Companies (Aditamento e Consolidação ao Plano de Recuperação Judicial Conjunto das Sociedades Integrantes do Grupo Constellation) (the "**RJ Plan Amendment**"). Subject to the terms and conditions set forth in the Plan Support and Lock-Up Agreement, dated March 24, 2022 (the "**Plan Support Agreement**" or "**PSA**"), among the Parties (as defined below), the RJ Plan Amendment and this Term Sheet have been agreed to by the Parties. The Definitive Documentation (as defined below) for the transactions contemplated herein may contain terms that vary from the terms described herein. In case of conflict between the terms of this Term Sheet, the RJ Plan Amendment, the PSA and such Definitive Documentation, the Definitive Documentation shall prevail. Capitalized terms used in this Term Sheet but not defined herein shall have the meanings provided to such terms in the PSA. For the avoidance of doubt, the RJ Plan Amendment shall supersede in all respects the draft RJ Plan amendment that the Company filed on July 6, 2021.*

OVERVIEW	

Plan Support Parties and Related Definitions	▪ "**Parties**" means the Company Parties, the Legacy Shareholders, the Consenting Stakeholders, and the New Money Lenders (in each case, as defined below).
	▪ "**Consenting Stakeholders**" means, collectively, Bradesco, the Consenting 2024 Noteholders and the Consenting Lenders (in each case, as defined below).
	▪ "**RJ Debtors**" means the Company Parties set forth in Schedule X hereto, which are identified in the RJ Plan Amendment as RJ Debtors.
	▪ "**Legacy Shareholders**" means, collectively LuxCo and CIPEF (in each case, as defined below):
	  ▪ "**CIPEF**" means funds managed by Capital International, Inc., as direct or indirect minority shareholders of Constellation Holding. For the avoidance of doubt, for all purposes of this Term Sheet, the RJ Plan Amendment, the PSA and the related final documentation, CIPEF shall not be considered an affiliate of the funds or accounts managed by Capital Research and Management Company or its affiliates that hold any 2024 Notes or New Notes.
	  ▪ "**LuxCo**" means LUX Oil & Gas International S.à.r.l., as the majority holder of Constellation Holding and which is an entity 100% owned by SUN STAR Fundo de Investimento em Participações Multiestratégia Investimento no Exterior, an equity investment fund (*Fundo de Investimento em Participações*) ("**FIP**").[1]
	▪ "**Ad Hoc Group**" means that certain ad hoc group of Consenting 2024 Noteholders (as defined below) represented by Milbank LLP; Jefferies LLC; Virtus BR Partners; Thomaz Bastos, Waisberg, Kurzweil Advogados; Appleby; and Bonn Steichen & Partners.
	  ▪ "**2024 Fourth Lien Notes**" means Constellation Holding's 10.00% PIK / Cash Senior Secured Fourth Lien Notes due 2024 under that certain indenture dated December 18, 2019, to be restructured on the terms set forth in Schedule IV hereto.

[1] For the avoidance of doubt, FIP is not a Legacy Shareholder (as such term is defined herein).

	▪ "**2024 Notes**" means, together, the 2024 Participating Notes and the 2024 Fou Notes. ▪ "**2024 Participating Notes**" means both (i) Constellation Holding's 10.00% PIK / Cash Senior Secured Notes due 2024, comprised of 10.00% PIK / Cash Senior Secured First Lien Tranche due 2024 (including those considered Non-RJ-Subject Obligations (as defined below)), 10.00% PIK / Cash Senior Secured Second Lien Tranche due 2024, and 10.00% PIK / Cash Senior Secured Third Lien Tranche due 2024 under that certain indenture dated December 18, 2019, and (ii) Constellation Holding's 10.00% PIK / Cash Senior Secured Third Lien Notes due 2024 under that certain indenture dated December 18, 2019 (such indentures, together, as amended, the "**2024 Participating Notes Indentures**"), to be restructured on the terms set forth in Schedule II hereto. ▪ "**2030 Unsecured Notes**" means Constellation Holding's 6.25% PIK Senior Notes due 2030 under that certain indenture dated December 18, 2019, to be restructured on the terms set forth in Schedule V hereto. ▪ "**Consenting 2024 Noteholders**" means the holders of 2024 Notes that have executed the PSA or a joinder thereto (or any permitted transferee thereof under the PSA). ▪ "**New 2026 First Lien Notes**" or "**Tranche 2**" means Constellation Holding's new 3.00% / 4.00% PIK Toggle Senior Secured Notes due 2026, with the terms set forth in Schedule II hereto. ▪ "**New 2026 First Lien Notes Indenture**" means that certain indenture dated as of the Restructuring Closing Date, related to the issuance of the New 2026 First Lien Notes among the Company, the Indenture Trustee, and the guarantors named therein. ▪ "**New 2050 Second Lien Notes**" or "**Tranche 4**" means Constellation Holding's new 0.25% PIK Senior Second Lien Notes due 2050, with the terms set forth in Schedule IV hereto. ▪ "**New 2050 Second Lien Notes Indenture**" means that certain indenture dated as of the Restructuring Closing Date, among the Company, the Indenture Trustee, and the guarantors named therein related to the issuance of the New 2050 Second Lien Notes. ▪ "**New Notes**" means the New Priority Lien Notes, the New 2050 Second Lien Notes, the New 2026 First Lien Notes, and the New Unsecured Notes. ▪ "**New Priority Lien Notes**" means Constellation Holding's new 13.5% Senior Secured Notes, purchased by and issued to members of the Ad Hoc Group (in such capacity, the "**New Money Lenders**"), with the terms set forth in Schedule VI hereto. For the avoidance of doubt, the New Priority Lien Notes are considered Non-RJ-Subject Obligations. ▪ "**New Priority Lien Notes Indenture**" means that certain indenture dated as of the Restructuring Closing Date, among the Company, the Indenture Trustee, and the guarantors named therein, related to the issuance of the New Priority Lien Notes. ▪ "**New Unsecured Notes**" or "**Tranche 5**" means Constellation Holding's new 0.25% PIK Unsecured Notes due 2050, with the terms set forth in Schedule V hereto. ▪ "**New Unsecured Notes Indenture**" means that certain indenture dated as of the Restructuring Closing Date, among the Company, the Indenture Trustee, and the guarantor named therein, related to the issuance of the New Unsecured Notes (the "**New Unsecured Notes Indenture**" and, together with the New 2026 First Lien Notes Indenture, the New 2050 Second Lien Notes Indenture and the New Priority Lien Notes Indenture, the "**New Notes Indentures**").

- "**Required Consenting 2024 Noteholders**" means the Consenting 2024 Not holding, in the aggregate, at least 66.67% of the aggregate principal an outstanding 2024 Notes Claims.

- "**ALB Lenders**" means, collectively, the lenders under the Restructured ALB Credit Agreement (as defined below).
  - "**A/L Lenders**" means the lenders under the Second Amended and Restated Credit Agreement, dated December 18, 2019, by and among Amaralina Star Ltd. ("**Amaralina Star**") and Laguna Star Ltd. ("**Laguna Star**"), as borrowers, the agents thereto and the lenders thereto (as amended prior to the Restructuring Closing Date, the "**A/L Credit Agreement**").
  - "**Brava Lenders**" means the lenders under the Second Amended and Restated Credit Agreement, dated December 18, 2019, by and among Brava Star Ltd. ("**Brava Star**"), as borrower, the agents thereto and the lenders thereto (as amended, the "**Brava Credit Agreement**" and, together with the A/L Credit Agreement, the "**Existing ALB Credit Agreements**").
  - "**Consenting Lenders**" means the ALB Lenders that have executed the PSA or a joinder thereto (or any permitted transferee thereof under the PSA).
  - "**Existing A/L Loans**" means all amounts due under the A/L Credit Agreement, which are to be restructured on the terms set forth in Schedule I-A hereto.
  - "**Existing ALB Loans**" means collectively the Existing A/L Loans and Existing Brava Loans.
  - "**Existing Brava Loans**" means all amounts due under the Brava Credit Agreement, which are to be restructured on the terms set forth in Schedule I-A hereto.
  - "**New ALB L/C Credit Agreement**" means the new credit agreement to govern the portion of Laguna Star and Brava Star's secured loans, pursuant to the terms set forth in Schedule I-B hereto.
  - "**Restructured ALB Loans**" or "**Tranche 1**" means the portion of Amaralina Star, Laguna Star and Brava Star's secured loans to be governed by a new credit agreement (the "**Restructured ALB Credit Agreement**"), with the terms set forth in Schedule I-A hereto, which such Restructured ALB Credit Agreement, together with the New ALB L/C Credit Agreements, shall replace the Existing ALB Credit Agreements.
  - "**Required Consenting Lenders**" means Consenting Lenders (i) holding at least 50.1% of the aggregate principal outstanding amount of Credit Agreement Claims held by all Consenting Lenders and (ii) constituting at least three separate ALB Lender institutions; *provided that*, with respect to the declaration of a termination event as a result of any failure to comply with any Milestone pursuant to Section 11.01 of the PSA, "Required Consenting Lenders" means Consenting Lenders holding at least 66.67% of the aggregate outstanding principal amount of Credit Agreement Claims held by all Consenting Lenders.

- "**Bradesco**" means Banco Bradesco S.A., Grand Cayman Branch.
  - "**Existing Bradesco Loans**" means all amounts due under the Credit Agreement, provided as new money in accordance with the RJ Plan, dated December 18, 2019, by and among Constellation Overseas Ltd. ("**Constellation Overseas**"), Constellation Holding, the guarantors party thereto, the lenders party thereto, and Bradesco, as administrative agent, and the Amended and Restated Credit Agreement, dated December 18, 2019, by and among Constellation Overseas, Constellation Holding, the

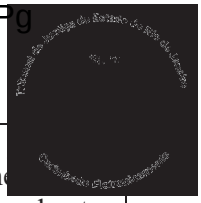
guarantors party thereto, the lenders party thereto, and Bradesco, as administrat
(together, the "**Existing Bradesco Loan Agreements**"), which are to be res
on the terms set forth in Schedule III hereto.

- "**Existing Bradesco L/Cs**" means (i) the letter of credit issued by Bradesco by order and for the account of Constellation Overseas on behalf of Laguna Star for the benefit of HSBC Bank USA, N.A. (the "**Bradesco Laguna L/C**") and (ii) the letter of credit issued by Bradesco by order and for the account of Constellation Overseas on behalf of Brava Star for the benefit of Citibank, N.A. (the "**Bradesco Brava L/C**"), both of which are to be replaced with a new letter of credit (the "**Evergreen L/C**") issued by Bradesco for the account of Constellation Overseas for the benefit of the agent under the New ALB L/C Debt (as defined below) as described in Schedule I-B hereto.
- "**Existing Bradesco Reimbursement Agreements**" means (i) the Amended and Restated Reimbursement Agreement dated as of December 18, 2019, between Constellation Overseas and Bradesco, relating to the Bradesco Laguna L/C, and (ii) the Amended and Restated Reimbursement Agreement dated as of December 18, 2019, between Constellation Overseas and Bradesco, relating to the Bradesco Brava L/C, both of which are to be replaced with a new reimbursement agreement relating to the Evergreen L/C (the "**New Reimbursement Agreement**") as described in Schedule I-B hereto.
- "**Restructured Bradesco Debt**" or "**Tranche 3**" means Bradesco's secured loans (which shall replace the Existing Bradesco Loans) to be governed by amendments and restatements to each of the Existing Bradesco Loan Agreements (the "**Restructured Bradesco Credit Agreements**"), which shall replace the Existing Bradesco Loan Agreements.

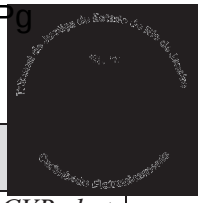
- "**Non-RJ-Subject Obligations**" means the claims held against the RJ Debtors that (i) were originated by events that occurred post-filing of the Brazilian RJ Proceeding (i.e., December 6, 2018); or (ii) are claims described in article 49, paragraphs 3 and 4 of the Brazilian Bankruptcy Law or in any other Brazilian laws that expressly exclude such claims from the effects of the Brazilian RJ Proceeding. The Parties acknowledge that the "ALB Re-Lending," the "New Bradesco Facility," the "2024 Notes New Money" (each as defined in the Second Amended and Restated Plan Support and Lock-Up Agreement executed on June 28, 2019 (the "**Second A&R PSA**")) and the New Priority Lien Notes are Non-RJ-Subject Obligations. The Parties further acknowledge that the Existing Bradesco L/Cs and the Existing Reimbursement Agreements are also Non-RJ-Subject Obligations, considering that such obligations were not enforceable against the RJ Debtors prior to the filing of the Brazilian RJ Proceeding.
- "**Definitive Documentation**" means, collectively:
  - the Restructured ALB Credit Agreement and the New ALB L/C Credit Agreement;
  - the New Notes Indentures, including, without limitation, the New Money Indenture Documents;
  - the Intercreditor Agreements (as defined below);
  - the Restructured Bradesco Credit Agreements, the Evergreen L/C and the New Reimbursement Agreement;
  - warrant agreements pertaining to the warrants of the Consenting Lenders;
  - agreements pertaining to the Contingent Value Rights (as defined below) for the Legacy Shareholders and the New Money Lenders;

	▪ the New Shareholders' Agreement (as defined below); ▪ any new, amended or amended and restated guarantees and security documents; ▪ the Trust Documents[2]; and ▪ all other related documents and agreements (including, without limitation, any intercreditor agreements, holding company formation documentation, etc.) with respect to the foregoing documents and agreements and the Restructuring Transactions.
General Principles and Timeline	▪ ***PSA***: Pursuant to the PSA, the Parties have agreed to work together to implement the Restructuring Transactions in the most tax efficient and legally effective manner possible for all Parties (including to preserve any favorable tax attributes of the Company), consistent with the terms set forth in this Term Sheet, the RJ Plan Amendment and the PSA, with the goal of proceeding in accordance with the Milestones set forth in the PSA (including, but not limited to, the RJ Plan Amendment submission and Restructuring Closing Date (as defined below) milestones set forth below), and subject to satisfaction of the applicable conditions set forth in this Term Sheet and the PSA. ▪ As contemplated in the PSA, the Company's capital structure is being deleveraged through this restructuring by providing for an exchange of the existing debt for new convertible debt (partially in the form of loans and partially in the form of notes) and new equity in Constellation Holding. The New Money Lenders will invest new money into the Company's business to better capitalize it for go-forward operations. As a result of the foregoing, certain of the Company's creditors are receiving the majority of Constellation Holding's reorganized equity, and the Legacy Shareholders will become minority shareholders. ▪ Prior to the Restructuring Closing Date, any proposed transferee of LuxCo's existing equity interests in the Company must become a party to the PSA via a joinder thereto in accordance with Section 6 of the PSA. ▪ ***Restructuring Closing Date***: The date for implementation and closing (the "**Restructuring Closing Date**") of the Restructuring Transactions (including having all collateral packages described hereunder perfected except as otherwise agreed by the beneficiaries thereof at their sole discretion), including pursuant to the PSA and this Term Sheet, to take place no later than May 31, 2022 (or a later date as may be agreed in writing (which may be via email) by the Company Parties, the Required Consenting 2024 Noteholders, the Required Consenting Lenders, Bradesco, and the Legacy Shareholders, in each case, in their reasonable discretion) (the "**Outside Date**"). Such Restructuring Closing Date is to be, among other things, (i) the date the Restructuring Transactions, as contemplated by this Term Sheet, the PSA and the RJ Plan Amendment, are consummated (and all conditions precedent described therein have been duly satisfied or waived in accordance with their terms), (ii) the issuance date of the new equity, the New Notes, the CVRs (as defined below) and the Brava Cashless Warrants, (iii) the effective date of the Restructured ALB Credit Agreement and the Restructured Bradesco Credit Agreements, and (iv) the date on which all other transactions or actions required to consummate the RJ Plan Amendment have been completed.

[2] "**Trust Documents**" means, collectively, (i) a Cayman Islands law trust deed establishing the Trust (as defined below under "Trust for LuxCo Interests") (the "**Trust Deed**") and (ii) such other agreements (other than the RJ Plan Amendment and the Plan Support Agreement) as may be necessary or appropriate to establish and implement the Trust, in each case, on terms and conditions consistent with the Trust Term Sheet and as agreed by the Company, LuxCo, FIP, the Required Consenting 2024 Noteholders, and the Required Consenting Lenders.



	▪ ***Agreement Regarding Olinda***: Olinda shall be restructured on the same terms as for the other guarantors of the 2024 Participating Notes under the RJ Plan Am pursuant to a BVI law scheme of arrangement (the "**Olinda Scheme**") and ancillary chapter 15 proceeding in the United States. The Olinda Scheme shall be filed prior to the Restructuring Closing Date.
EXISTING INDEBTEDNESS	
Total	Aggregate U.S.$1,841,610,298.34 in principal and interest outstanding as of April 7, 2021.
Existing ALB Loans	Aggregate U.S.$770,591,793.91 in principal and interest amounts of Existing ALB Loans outstanding as of April 7, 2021.
2024 Participating Notes	Aggregate U.S.$735,864,592.35 in principal and interest amounts of 2024 Participating Notes outstanding as of April 7, 2021.
Existing Bradesco Loans	Aggregate U.S.$162,931,023.23 in principal and interest amounts of Existing Bradesco Loans outstanding as of April 7, 2021.
2024 Fourth Lien Notes	Aggregate U.S.$65,040,698.08 in principal and interest amounts of 2024 Fourth Lien Notes outstanding as of April 7, 2021.
2030 Unsecured Notes	Aggregate U.S.$107,182,190.77 in principal and interest amounts of 2030 Unsecured Notes outstanding as of April 7, 2021.
NEW FUNDED DEBT AMOUNT	
Total	Aggregate U.S.$826,000,000 in principal amount of new convertible bank debt and convertible notes, as set forth below.
Tranche 1	Aggregate U.S.$500,000,000 in principal amount of Restructured ALB Loans, subject to the terms set forth in Schedule I-A hereto.
Tranche 2A	Aggregate U.S.$31,074,568 in principal amount of New 2026 First Lien Notes, subject to the terms set forth in Schedule II hereto.
Tranche 2B	Aggregate U.S.$247,225,432 in principal amount of New 2026 First Lien Notes, subject to the terms set forth in Schedule II hereto.
Tranche 3A	Aggregate U.S.$10,600,000 in principal amount of Restructured Bradesco Debt, subject to the terms set forth in Schedule III hereto.
Tranche 3B	Aggregate U.S.$32,100,000 in principal amount of Restructured Bradesco Debt, subject to the terms set forth in Schedule III hereto.
Tranche 4	Aggregate U.S.$1,888,434 in principal amount of New 2050 Second Lien Notes, subject to the terms set forth in Schedule IV hereto.
Tranche 5	Aggregate U.S.$3,111,566 in principal amount of New Unsecured Notes, subject to the terms set forth in Schedule V hereto.
OTHER DEBT	
New Money Debt	U.S.$60,000,000 *plus* U.S.$2,400,000 (as a commitment fee to the New Money Lenders), subject to the terms set forth in Schedule VI hereto.
New ALB L/C Debt	Aggregate U.S.$30,200,000 in principal amount, subject to the terms set forth in Schedule I-B hereto.



RESTRUCTURED EQUITY	

This description of the new equity holdings does not reflect the conversion of the new convertible debt or the CVRs but does reflect the exercise, in full, of the Brava Cashless Warrants.
▪ Legacy Shareholders: 27.0% (represented by Class A Stock)[3]
  ▪ From and after the Restructuring Closing Date, any transferee of Class A Stock or the Contingent Value Rights held by LuxCo (or the Trust on LuxCo's behalf) (the "**LuxCo Interests**") must be a party to the New Shareholders' Agreement. The effectuation of any such transfer of LuxCo Interests will be subject to compliance with the terms and conditions of the New Shareholders' Agreement and the Trust Documents.
▪ New Shareholders:
  ▪ Equity for 2024 Participating Notes: 47.0% (represented by Class B-1 Stock)[4]
  ▪ Brava Cashless Warrants: if exercised, 26.0% (represented by the right to purchase Class B-2 Stock) (the Class B-1 Stock and Class B-2 Stock, collectively, the "**Class B Stock**")
▪ For the avoidance of doubt, if the Brava Cashless Warrants are not exercised, the *pro forma* allocation of the new equity holdings shall be as follows:
  ▪ Legacy Shareholders: 36.5% (represented by Class A Stock)
  ▪ Equity for 2024 Participating Notes: 63.5% (represented by Class B-1 Stock)	

OTHER TERMS	
Conditions Precedent	The implementation and closing of the Restructuring Transactions shall be subject to the satisfaction (or waiver in accordance with the PSA) of all of the conditions precedent included in Section 2 of the PSA. For the avoidance of doubt, the waiver and consent rights of all parties to the PSA with respect to the conditions precedent in Section 2.02 of the PSA are expressly incorporated by reference herein.
Minimum Liquidity Covenant	A minimum Liquidity test on a consolidated basis for the Company of U.S.$35.0 million, to be tested on a quarterly basis, subject to a 45-day cure period, as provided in Schedules I, II and III hereto (a "**Minimum Liquidity Covenant**"). ▪ "**Liquidity**" means Unrestricted Cash *plus* any undrawn, fully committed revolver availability. Unrestricted Cash is to be tested quarterly based on quarterly consolidated financial statements of the Company. ▪ "**Unrestricted Cash**" means all cash and short-term investments, in each case that are not subject to any lien in favor of any creditor or third party, which includes, without limitation, the New Priority Lien Notes; it being understood and agreed that all cash in

[3] On the Restructuring Closing Date, the Parties shall take all steps necessary (including amending the articles of association for Constellation Holding) to (i) eliminate, for no consideration, the outstanding Class B stock as of the Restructuring Date, (ii) authorize the issuance of new Class A Stock, Class B Stock and Class C Stock on the terms set forth in this Term Sheet and the other Definitive Documentation, and (iii) authorize the dilution of the outstanding Class A Stock as of the Restructuring Closing Date, such that immediately following the issuance of the new Class A Stock on the Restructuring Closing Date, 6.99% of the Share Capital (assuming the full conversion of the Brava Cashless Warrants), in the aggregate, will be held by CIPEF, and 20.01% of the Share Capital (assuming the full conversion of the Brava Cashless Warrants), in the aggregate, will be held on behalf of LuxCo (including the assets deposited in the Trust as contemplated hereunder.

[4] Class B-1 Shares may be issued as non-voting equity with all other rights unchanged, to the extent required by one or more recipients of such shares.

	any proceeds account or otherwise available for any required/contractual sched service payments (i.e., interest, amortizations, etc.) due through the testing dat considered Unrestricted Cash.
Priority CapEx Debt	Permitted capex debt basket for debt of Constellation Holding or any of its subsidiaries incurred to make capital expenditures (including any maintenance, upgrade or overhaul, but excluding any acquisition of drilling rigs) ("**Capital Expenditures**") on the Tranche 1 and Tranche 2/3 collateral (the "**Priority CapEx Debt**") not to exceed U.S.$30.0 million in the aggregate; *provided that*: ▪ such Priority CapEx Debt was incurred on market terms, prior to, at the time of, or within six months of, the related Capital Expenditures; ▪ (i) the ALB Lenders will be offered a right of first refusal to provide any portion of the Priority CapEx Debt in the amount secured by Tranche 1 collateral and (ii) so long as a Consenting 2024 Noteholder holds either (x) at least 10% of the outstanding principal amount of the New 2026 First Lien Notes or (y) at least 10% of the outstanding principal amount of the New Priority Lien Notes, then, such Consenting 2024 Noteholder will be offered a right of first refusal to provide any portion of the Priority CapEx Debt in the amount secured by Tranche 2/3 collateral; ▪ (i) any liens on the Tranche 1 collateral securing such Priority CapEx Debt shall be junior to any liens securing the New Priority Lien Notes and senior to any liens securing the Restructured ALB Loans and (ii) any liens on the Tranche 2/3 collateral securing such Priority CapEx Debt shall be junior to any liens securing the New Priority Lien Notes and senior to any liens securing the New 2026 First Lien Notes and the Restructured Bradesco Debt; ▪ (i) the maximum principal amount of all outstanding Priority CapEx Debt that can be secured by Tranche 1 collateral shall be an amount equal to the lesser of (x) 60% of the principal amount of the aggregate outstanding Priority CapEx Debt and (y) the then-applicable ALB CapEx Lien Cap (as defined below), and (ii) the maximum principal amount of all outstanding Priority CapEx Debt that can be secured by Tranche 2/3 collateral shall be an amount equal to the then-applicable Rigs CapEx Lien Cap (as defined below); and ▪ the maximum principal amount of any single incurrence or draw of Priority CapEx Debt that can be secured by Tranche 1 collateral shall be an amount equal to the lesser of 60% of the principal amount of such incurrence or draw of Priority CapEx Debt and the amount available under the then-applicable ALB CapEx Lien Cap.
Trust for LuxCo Interests	On the Restructuring Closing Date, the LuxCo Interests will be deposited into a special purpose STAR trust established under the laws of the Cayman Islands (the "**Trust**"). From and after the Restructuring Closing Date, the LuxCo Interests and the proceeds thereof (the "**Trust Assets**") will be held in the Trust and subject to release upon the occurrence of certain events as specified in, and subject to the terms and conditions of, the Trust Documents.
Intercreditor Arrangements	See Schedule XI.

Redemption Right	All debt is callable at par (other than (i) the Tranche 4 and Tranche 5 debt, which is ca its net present value using a 4% discount rate, and (ii) the New Priority Lien Notes, w callable solely as provided for under Schedule VI hereto); *provided that* any such redemption must be done on a *pro rata* basis among the Outstanding Amount (as defined below) of the Tranche 1, Tranche 2 and Tranche 3 debt, taken as a whole, and no prepayment or redemptions may be made on the Tranche 4 or Tranche 5 debt before all of the New Priority Lien Notes, the New ALB L/C Debt and the Tranche 1, Tranche 2 and Tranche 3 debt have been repaid in full and no amounts remain owing and outstanding thereunder. Notwithstanding the foregoing, any prepayment of Tranche 1, Tranche 2 and Tranche 3 debt from the proceeds from the sale of collateral securing such tranche shall not be done on a *pro rata* basis, and instead shall be in compliance with the terms set forth under "Asset Sales" in Schedule VI hereto. For the avoidance of doubt, excess cash flow distributions in accordance with Schedule IX shall not constitute redemptions hereunder.
Tax Gross Up	All payments made by or on behalf of Constellation Holding to the ALB Lenders, the Ad Hoc Group, the New Money Lenders, Bradesco, any other lender under the Definitive Documentation or other applicable payee in connection with the Restructuring Transactions (including any PIK or deferred payment amounts and including payment of advisor fees) shall be made in full, and the sum payable shall be increased as necessary so that after making any and all required deductions or withholdings, each ALB Lender, Ad Hoc Group member, New Money Lender, Bradesco, or such other lender or payee receives an amount equal to the sum it would have received had no such deductions or withholdings been made.
Releases	The RJ Plan Amendment shall include appropriate releases, substantially in the form attached hereto as **Exhibit A**, for the Company Parties, the Legacy Shareholders, the Consenting Stakeholders, and the New Money Lenders.
Fees and Release of Joint Provisional Liquidators	▪ The Company will pay the fees and expenses of the Joint Provisional Liquidators arising from, and incurred prior to, the discharge of their duties (which discharge shall be substantially at the same time as, and subject to the occurrence of, the Restructuring Closing Date) by orders of the BVI Court and the Grand Court of the Cayman Islands (the "**Joint Provisional Liquidator Discharge**"). ▪ The Parties agree to, upon the Joint Provisional Liquidator Discharge, irrevocably release and hold harmless and not bring any action, claim, complaint or litigation against the Joint Provisional Liquidators, their employees and/or advisors in any jurisdiction with regard to any matter arising from or incidental to the provisional liquidation of the JPL Entities, the RJ Plan Amendment or any associated documentation or agreements, subject to customary exceptions for fraud, gross negligence and willful misconduct. For the avoidance of doubt, the foregoing agreement shall have no effect unless and until the Restructuring Closing Date occurs.
Governing Law	▪ The Plan Support Agreement, this Term Sheet and the other Definitive Documentation (other than (i) the Trust Documents, which shall be subject to the governing law specified therein; and (ii) certain security agreements to be agreed, which shall be governed by applicable local law where the assets are located) are to be governed by New York law. The only document to be governed by Brazilian law is the RJ Plan Amendment (other than certain security agreements to be agreed, which shall be governed by applicable local law). ▪ Submission to jurisdiction: As further set forth in Section 14.04 of the Plan Support Agreement, suits to enforce the Plan Support Agreement or seek injunctive relief must be brought in the state courts located in the State of New York and the County of New York and the United States District Court for the Southern District of New York, the U.S. Bankruptcy Court or, solely with respect to matters under the Brazilian Bankruptcy Law,

	with the Brazilian RJ Court. The forum for matters under all other Definitive Docum shall be specified therein.
Indenture Trustee	▪ All distributions in connection with the New Notes Indentures shall be made to the Indenture Trustee for the benefit of the respective noteholders. ▪ The Indenture Trustee shall retain all rights under the New Notes Indentures to exercise its charging lien against all money or property held or collected by the Indenture Trustee and the Collateral Trustee (as defined in the 2024 Participating Notes Indentures) with respect to the New Notes, except for any money or property held in trust to distribute principal, premium, if any, and interest to the respective noteholders.

Schedules

I-A Tranche 1: Restructured ALB Loans

I-B New ALB L/C Debt

II Tranche 2: New 2026 First Lien Notes

III Tranche 3: Restructured Bradesco Debt

IV Tranche 4: New 2050 Second Lien Notes

V Tranche 5: New Unsecured Notes

VI New Priority Lien Notes

VII-A Equity Matters and Shareholder Arrangements

VII-B Board Composition

VII-C MIP

VIII Liquidity Event / Debt Conversion

IX Excess Cash Flow Entitlement

X RJ Debtors

XI Intercreditor Arrangements

Exhibits

A Form of Release

B New Money Commitment Agreement

Schedule I-A

Tranche 1: Restructured ALB Loans

<table>
<tr><td>Principal Amount</td><td>The following amount shall be applied to repay the Amaralina Star Term Loans (as defined in the A/L Credit Agreement) concurrently with the occurrence of the Restructuring Closing Date:
U.S.$15,062,467.14 from amounts available under the applicable reserve accounts.
The following amount shall be applied to repay the Existing Brava Loans concurrently with the occurrence of the Restructuring Closing Date:
U.S.$2,535,123.06 from amounts available under the applicable reserve accounts.
Following such repayments, the principal amount of the Restructured ALB Loans as of the Restructuring Closing Date shall be U.S.$500,000,000, which shall be allocated to the ALB Lenders on a pro rata basis as follows: (i) U.S.$304,630,253.78 to the A/L Lenders and (ii) U.S.$195,369,746.22 to the Brava Lenders.

The principal amount of the Restructured ALB Loans shall only accrue interest commencing on the Restructuring Closing Date.

Notwithstanding the nature of Non-RJ-Subject Obligations of the ALB Re-Lending (as defined in the Second A&R PSA), the Company, the New Money Lenders and the Consenting Stakeholders agree that such Non-RJ-Subject Obligations shall be restructured on the same terms, conditions, fees, and interest rates described in this Schedule I-A.</td></tr>
<tr><td>Maturity</td><td>December 31, 2026.</td></tr>
<tr><td>Interest

(paid/capitalized March, June, September, December)</td><td>Prior to the Restructuring Closing Date, the Required Consenting Lenders shall indicate whether interest will accrue on the Restructured ALB Loans at a fixed rate or floating rate. No less than three business days prior to each interest payment date, the borrower shall notify the ALB Lenders and the agent under the Restructured ALB Credit Agreement whether the interest on such interest payment date shall be made in cash or as payment-in-kind. Based on such elections, interest will accrue for each interest period based on the applicable interest rate selected pursuant to the table below. Interest shall be paid or capitalized, as applicable, on the last business day of March, June, September and December of each year.

<table>
<tr><th>Interest Rate Type
(cash / PIK at borrower option; floating / fixed at ALB option)</th><th>Interest Rate</th></tr>
<tr><td>Floating PIK Interest Rate</td><td>▪ SOFR plus 3% per annum</td></tr>
<tr><td>Fixed PIK Interest Rate</td><td>▪ 4% per annum</td></tr>
<tr><td>Floating Cash Interest Rate</td><td>▪ SOFR plus 2% per annum</td></tr>
<tr><td>Fixed Cash Interest Rate</td><td>▪ 3% per annum</td></tr>
</table>
</td></tr>
<tr><td>Amortization</td><td>None.</td></tr>
<tr><td>Excess Cash Flow</td><td>See Schedule IX.</td></tr>
<tr><td>Collateral</td><td>Existing collateral package, subject to:
existing collateral under the Existing ALB Credit Agreements (with removal of cross-collateral feature as between the A/L Lenders and the Brava Lenders) shall be shared, on</td></tr>
</table>

	the same priority basis, ratably by all lenders under the Restructured ALB Agreement; ▪ Tranche 1 Permitted Priority Liens listed below; ▪ no ALB Offshore Debt Service Reserve Accounts (as such term is defined in the Existing ALB Credit Agreements) will be required; and ▪ access by the Company Parties to ALB Lenders' secured receivables on a monthly basis (instead of quarterly). For the avoidance of doubt, the Evergreen L/C will not be considered part of the Tranche 1 collateral.
Guarantors	Existing guarantors, other than certain non-operating entities to be agreed, which non-operating entities will be dissolved prior to or within a period to be agreed following the Restructuring Closing Date.
Covenants	Restructured ALB Credit Agreement to include all existing covenants (including, for the avoidance of doubt, existing reporting covenants) in the Existing ALB Credit Agreements, subject to: ▪ Financial / Maintenance Covenants: No financial or maintenance covenants other than the Minimum Liquidity Covenant, subject to a 45-day cure period. ▪ Reporting Covenant: Same as Existing ALB Credit Agreements, with the exception that the auditor's opinion on the annual financial statements for the year ended December 31, 2021, may be qualified (or include a material weakness or significant deficiency) to the extent such qualification, material weakness or significant deficiency (i) is customary for entities in a *recuperação judicial* and (ii) results from or is related to the Restructuring Transactions. ▪ Permitted Indebtedness: No new debt permitted other than the New Priority Lien Notes, the New Reimbursement Obligations, the New ALB L/C Debt and the Priority CapEx Debt. ▪ Permitted Liens: To provide for priority liens ("**Tranche 1 Permitted Priority Liens**") on Tranche 1 collateral to secure (subject in each case to the Intercreditor Agreements): ▪ up to U.S.$37.44 million of the principal amount of the New Priority Lien Notes *plus* accrued and unpaid interest thereon (at the stated interest rate in this Term Sheet and if such rate is increased, at the increased rate only to extent such increase was consented to as provided in the Master Intercreditor Agreement) (the "**Tranche 1 New Notes Lien Cap**"); and ▪ up to U.S.$15.0 million principal amount of the Priority CapEx Debt secured by Tranche 1 collateral (the "**ALB CapEx Lien Cap**"); *provided that* any paydown of the (i) New Priority Lien Notes through amortization, asset sales, redemptions or otherwise shall reduce the Tranche 1 New Notes Lien Cap proportionately with the Tranche 2/3 New Notes Lien Cap at the time of such paydown, such that the aggregate reduction in both the Tranche 1 New Notes Lien Cap and the Tranche 2/3 New Notes Lien Cap is equal to the aggregate paydown of the New Priority Lien Notes, and (ii) Priority Capex Debt through amortization, asset sales, redemptions or otherwise shall reduce the ALB CapEx Lien Cap proportionately with the Rigs CapEx Lien Cap such that the aggregate reduction in both the ALB CapEx Lien Cap and the Rigs CapEx Lien Cap is equal to the aggregate paydown of the Priority CapEx Debt.

	▪ Removal of covenants relating to Alperton, FPSO Disposition, DSRA, Post-Decision Actions, and Holdco Guarantors. ▪ Immediate reinstatement of Mortgage Interest Insurance and maintenance thereof in accordance with obligations under the Existing ALB Credit Agreements. ▪ MFN provision with respect to covenants and events of default on other debt. ▪ Inclusion of covenants satisfactory to the ALB Lenders with respect to sustainable scrapping, inventory of hazardous materials, and responsible recycling in accordance with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 (the "**Convention**") and/or EU Ship Recycling Regulation, 2013, regardless of whether the Convention is ratified or not. Covenant to provide that if a vessel/unit is to be recycled in accordance with the Convention, the Company Parties shall ensure that the ALB Lenders receive a copy of a statement of compliance with the Convention addressed to the relevant vessel/ unit owner from an independent third party acceptable to the Required ALB Majority (as defined below) (acting reasonably), prior to the completion of such recycling.
Events of Default	Existing events of default, subject to: ▪ removal of "Material Adverse Event" event of default; ▪ addition of a cross-default for any default under the New ALB L/C Debt; ▪ addition of an event of default due to a breach of representations and covenants relating to Environmental, Social, and Governance ("**ESG**") matters (to include, without limitation, (and to the extent not already included in existing events of defaults) breach of representations and covenants relating to compliance with applicable ESG laws, treaties, conventions, and regulations, including with respect to sustainable and socially responsible dismantling of vessels and sanctions) all to be agreed in Definitive Documentation. Such event of default shall be subject to standard majority lender threshold and cure periods to be so agreed. For the avoidance of doubt, existence and continuation of such event of default past the cure period shall trigger cross-defaults under the New ALB L/C Debt, the New 2026 First Lien Notes and the New Priority Lien Notes; ▪ addition of an event of default for failure to pay the New ALB L/C Debt upon a Qualifying Liquidity Event; and ▪ addition of an event of default for breach of the Minimum Liquidity Covenant, subject to a 45-day cure period.
Brava Cashless Warrants	On the Restructuring Closing Date, the Brava Lenders shall receive cashless warrants exercisable for an aggregate amount of Class B-2 Stock equal to 26% of the total common equity of Constellation Holding as of the Restructuring Closing Date (the "**Brava Cashless Warrants**"). Any holder of a Brava Cashless Warrant may exercise its Brava Cashless Warrants at any time; *provided that*, if not earlier exercised, the Brava Cashless Warrants must be exercised or terminated, at such holder's option, upon a Qualifying Liquidity Event (as defined below). Unless otherwise so elected by the holder of any such Brava Cashless Warrant, such holder's Brava Cashless Warrants will be deemed exercised upon the consummation of a Qualifying Liquidity Event. The Class B-2 Stock to be received upon exercise of the Brava Cashless Warrants shall have the same rights and receive the same treatment as the rest of the Share Capital (as defined below) outstanding at the time of such Liquidity Event, including the tag-along rights contemplated in Schedule VIII.

	Brava Cashless Warrants will be freely transferable and may be traded separately from the Restructured ALB Loans, subject to compliance with applicable securities laws and the New Shareholders' Agreement. "**Qualifying Liquidity Event**" means a Liquidity Event that is approved as described in Schedule VIII.
Convertibility	▪ Upon a Qualifying Liquidity Event, as described in Schedule VIII, the aggregate outstanding amount of the Restructured ALB Loans shall convert into Class C-1 Stock entitled to receive Net Liquidity Proceeds (as defined below) from such Qualifying Liquidity Event equal to the ALB Conversion Amount (as defined below). ▪ "**ALB Conversion Amount**" means an amount equal to (i) the Debt Conversion Amount times (ii) the percentage of the total Outstanding Amount of the Convertible Debt represented by the Outstanding Amount of the Restructured ALB Loans. ▪ "**Convertible Debt**" means, collectively, the Restructured ALB Loans, the Restructured Bradesco Debt, and the New Notes (other than the New Priority Lien Notes). ▪ "**Debt Conversion Amount**" means the lesser of (i) the Outstanding Amount of the Convertible Debt and (ii) 87% of the Net Liquidity Proceeds from such Qualifying Liquidity Event. ▪ "**Outstanding Amount**" means, with respect to any debt as of any measurement date, the outstanding principal amount (including any capitalized interest) of such debt, together with any accrued and unpaid interest as of such date; *provided that*, with respect to the New 2050 Second Lien Notes and the New Unsecured Notes, the Outstanding Amount shall mean the net present value, calculated using a discount rate of 4% per annum, of the outstanding principal amount (including any capitalized interest), together with any accrued and unpaid interest of the New 2050 Second Lien Notes and the New Unsecured Notes as of such date.

Schedule I-B

New ALB L/C Debt

Principal Amount	U.S.$30,200,000 ("**New ALB L/C Debt**"). Each A/L Lender's portion of the principal amount of the New ALB L/C Debt shall be its *pro rata* share of U.S.$24,000,000 of the New ALB L/C Debt based on the proportion that the principal amount of such A/L Lender's Laguna Star Term Loans (as defined in the A/L Credit Agreement) bears to the aggregate principal amount of the Laguna Star Term Loans. Each Brava Lender's portion of the principal amount of the New ALB L/C Debt shall be its *pro rata* share of U.S.$6,200,000 of the New ALB L/C Debt based on the proportion that the principal amount of such Brava Lender's Existing Brava Loans bears to the aggregate principal amount of the Existing Brava Loans.
Maturity	The earlier of December 31, 2026, and the date on which the Liquidity Event Proceeds of a Qualifying Liquidity Event are distributed in accordance with Schedule VIII.
Interest (paid March, June, September, December)	Prior to the Restructuring Closing Date, the Required Consenting Lenders shall indicate whether interest will accrue on the New ALB L/C Debt at a fixed rate or floating rate. Based on such election interest will accrue for each interest period based on the applicable interest rate selected pursuant to the table below. Interest shall be paid on the last business day of March, June, September and December of each year. Interest Rate Type *(cash; floating / fixed at ALB Lenders' option)* — Interest Rate Floating Cash Interest Rate — ▪ SOFR *plus* 3% per annum Fixed Cash Interest Rate — ▪ 4% per annum
Amortization	None.
Collateral	Bradesco to provide the Evergreen L/C in the amount of U.S.$30.2 million in favor of the agent under the New ALB L/C Debt (the "**L/C Beneficiary**"), which Evergreen L/C would replace the Existing Bradesco L/Cs and be issued simultaneously with the cancellation thereof. The fees associated with the Evergreen L/C are to be on terms consistent with the Existing Bradesco L/Cs and otherwise reasonably acceptable to each of the Parties, consistent with their consent and approval rights set forth in the PSA. The maturity of the Evergreen L/C will initially be the date that is one year from the Restructuring Closing Date, which maturity date will automatically extend for another year on each anniversary of the Restructuring Closing Date; *provided that*, (i) the term of the Evergreen L/C will be automatically extended upon an extension in the maturity of the New ALB L/C Debt; and (ii) the Evergreen L/C shall automatically terminate on the date the Company Parties' obligations under the New ALB L/C Debt are repaid in full. The L/C Beneficiary is to be able to draw on the Evergreen L/C on demand upon (i) the occurrence of a payment default with respect to the New ALB L/C Debt, whether at maturity (including, for the avoidance of doubt, a payment default upon distribution of the Liquidity Event Proceeds of a Qualifying Liquidity Event), acceleration or otherwise, (ii) a bankruptcy, reorganization proceeding or insolvency filing (including with respect to a *recuperação judicial* or *recuperação extrajudicial*) by any direct shareholder of Constellation Holding, any of the Company Parties, or any other Affiliates of Constellation Holding, or (iii) the termination of the Evergreen L/C prior to repayment in full of the New ALB L/C Debt (which, for the avoidance

	of doubt, shall include a failure to renew the Evergreen L/C prior to each anniversa Restructuring Closing Date). The draw on the Evergreen L/C shall not exceed the less the total outstanding obligations under the New ALB L/C Debt at the time of the draw and (y) U.S.$30.2 million. Any draw under the Evergreen L/C will be applied solely to repay the New ALB L/C Debt, and the reimbursement obligations of Constellation Holding with respect thereto will be governed by the New Reimbursement Agreement and subject to the Intercreditor Agreements (as defined below). The reimbursement obligations of Constellation Holding under the New Reimbursement Agreement shall be *extraconcursal* for the purposes of the RJ Debtors' *recuperação judicial* and/or *falência*. Upon a draw of the Evergreen L/C, the New Reimbursement Agreement will provide that Constellation Overseas shall owe to Bradesco the amount of such draw (the "**New Reimbursement Obligations**"). The terms of the New Reimbursement Agreement will be consistent with the terms of the Existing Bradesco Reimbursement Agreements; *provided that*, (i) the New Reimbursement Obligations will be secured by a second lien on the same collateral securing the New 2050 Second Lien Notes on a *pari passu* basis and subject to the Intercreditor Agreements and (ii) the guarantors of the New Reimbursement Obligations will be the same as the guarantors guaranteeing the New 2050 Second Lien Notes, other than certain non-operating entities to be agreed, which non-operating entities will be dissolved prior to or within a period to be agreed following the Restructuring Closing Date.
Guarantors	Same as for the Restructured ALB Credit Agreement.
Covenants	Same as for the Restructured ALB Credit Agreement.
Excess Cash Flow	None.
Events of Default	Same as for the Restructured ALB Credit Agreement plus a cross-default for any default under the Restructured ALB Credit Agreement. Events of default (other than payment defaults or defaults related to the non-renewal of the Evergreen L/C) shall be subject to a grace period to be agreed. Events of default (other than the non-renewal of the Evergreen L/C) shall be immediately informed by the L/C Beneficiary to Bradesco; *provided that*, for the avoidance of doubt, failure to so inform shall not impair any right, power or remedy of the ALB Lenders, or be construed to be a waiver thereof.
Convertibility	None.
Documentation	The New ALB L/C Debt shall be documented separately from the Restructured ALB Loans and shall not be subject to any provisions of the Restructured ALB Credit Agreement, including, but not limited to, any waterfall provisions.
Assignment	The New ALB L/C Debt shall be freely assignable without the consent of the borrower or guarantors, it being understood that Bradesco's KYC requirements must be satisfied prior to any change to the L/C Beneficiary.

Schedule II

Tranche 2: New 2026 First Lien Notes

Principal Amount	U.S.$278,300,000, which will accrue interest commencing on the Restructuring Closing Date. This will consist of Tranche 2A in the amount of U.S.$31,074,568 and Tranche 2B in the amount of U.S.$247,225,432. Tranches 2A and 2B are collectively referred to as "**Tranche 2**" herein. Notwithstanding the nature of Non-RJ-Subject Obligations of the 2024 Notes New Money (as defined in the Second A&R PSA), the Company, the New Money Lenders and the Consenting Stakeholders agree that such Non-RJ-Subject Obligations shall be restructured on the same terms, conditions, fees, and interest rates described in this Schedule II.
Maturity	December 31, 2026.
Interest (paid/capitalized March, June, September, December)	No less than three (3) business days prior to each interest payment date, Constellation Holding shall notify the trustee whether the interest on such interest payment date shall be made in cash or as payment-in-kind. Based on such elections, interest will accrue for each interest period based on the applicable interest rate selected pursuant to the table below. Interest shall be paid or capitalized, as applicable, quarterly, on the last business day of March, June, September and December of each year. **Interest Rate Type** / **Interest Rate** **Fixed PIK Interest Rate**: ▪ 4% per annum **Fixed Cash Interest Rate**: ▪ 3% per annum
Amortization	None.
Excess Cash Flow	See Schedule IX.
Collateral	First lien on the same collateral securing the 2024 Participating Notes (where such first lien shall be on a *pari passu* basis with the Restructured Bradesco Debt, subject to the Tranche 2/3/4 Intercreditor Agreement), subject to the Tranche 2/3 Permitted Priority Liens (as defined below). Collateral (which shall also secure the Restructured Bradesco Debt on a *pari passu* basis, subject to the Tranche 2/3/4 Intercreditor Agreement) to also include a first lien on the collateral securing the New Priority Lien Notes (other than the collateral securing the Restructured ALB Loans) so long as such collateral secures the New Priority Lien Notes. Subject in each case to the Tranche 2/3/4 Intercreditor Agreement, holders of a majority of the outstanding principal amount of the New 2026 First Lien Notes may release or waive any collateral securing the New 2026 First Lien Notes; *provided that* holders of 66 2/3% of the New 2026 First Lien Notes must consent to release all or substantially all of the collateral securing the New 2026 First Lien Notes.
Guarantors	Same as for the 2024 Participating Notes, other than certain non-operating entities to be agreed, which non-operating entities will be dissolved prior to or within a period to be agreed following the Restructuring Closing Date. Guarantors also to include any other Company Parties that guarantees the New Priority Lien Notes so long as such entities guarantee the New Priority Lien Notes. Holders of a majority of the outstanding principal amount of the New 2026 First Lien Notes may release any guarantor of the New 2026 First Lien Notes.
Covenants	Same as exists under the 2024 Participating Notes Indentures, subject to: ▪ Financial / Maintenance Covenants: No financial or maintenance covenants other than the Minimum Liquidity Covenant, subject to a 45-day cure period.

	▪ Permitted Indebtedness: No new debt permitted other than the New Priority Li and the Priority CapEx Debt. ▪ Permitted Liens: To provide for permitted priority liens on Tranche 2/3 collateral (the "**Tranche 2/3 Permitted Priority Liens**") to secure (subject in each case to the Tranche 2/3/4 Intercreditor Agreement): ▪ up to U.S.$24.96 million of the principal amount of the New Priority Lien Notes *plus* accrued and unpaid interest thereon (the "**Tranche 2/3 New Notes Lien Cap**"); and ▪ up to U.S.$15.0 million principal amount of the Priority CapEx Debt secured by Tranche 2/3 collateral (the "**Rigs CapEx Lien Cap**"); *provided that* any paydown of the (i) New Priority Lien Notes through amortization, asset sales, redemptions or otherwise shall reduce the Tranche 2/3 New Notes Lien Cap proportionately with the Tranche 1 New Notes Lien Cap at the time of such paydown, such that the aggregate reduction in both the Tranche 2/3 New Notes Lien Cap and the Tranche 1 New Notes Lien Cap is equal to the aggregate paydown of the New Priority Lien Notes, and (ii) Priority Capex Debt through amortization, asset sales, redemptions or otherwise shall reduce the Rigs CapEx Lien Cap proportionately with the ALB CapEx Lien Cap such that the aggregate reduction in both the Rigs CapEx Lien Cap and the ALB CapEx Lien Cap is equal to the aggregate paydown of the Priority CapEx Debt. ▪ Asset Sales: See "Asset Sale Covenant" for the New Priority Lien Notes under Schedule VI. ▪ MFN provision with respect to events of default with respect to all other debt.
Events of Default	Existing events of default, subject to: ▪ addition of a cross-default for (i) any default under the New ALB L/C Debt or (ii) termination of the Evergreen L/C at any point during the life of the New ALB L/C Debt; and ▪ addition of a default for breach of the Minimum Liquidity Covenant, subject to a 45-day cure period.
Convertibility	▪ Upon a Qualifying Liquidity Event, as described in Schedule VIII, the aggregate outstanding amount of the New 2026 First Lien Notes shall convert into Class C-2 Stock entitled to receive Net Liquidity Proceeds from such Qualifying Liquidity Event equal to the New 2026 First Lien Notes Conversion Amount (as defined below). ▪ "**New 2026 First Lien Notes Conversion Amount**" means an amount equal to (i) the Debt Conversion Amount times (ii) the percentage of the total Outstanding Amount of the Convertible Debt represented by the Outstanding Amount of the New 2026 First Lien Notes.

Schedule III

Tranche 3: Restructured Bradesco Debt

<table>
<tr><td>Principal Amount</td><td>Aggregate U.S.$42.7 million of principal amount of Restructured Bradesco Debt, which will accrue interest commencing on the Restructuring Closing Date. This will consist of Tranche 3A in the amount of U.S.$10,600,000 and Tranche 3B in the amount of U.S.$32,100,000. Tranches 3A and 3B are collectively referred to as “Tranche 3” herein.

Notwithstanding the nature of Non-RJ-Subject Obligations of the New Bradesco Facility (as defined in the Second A&R PSA), the Company, the New Money Lenders and the Consenting Stakeholders agree that such Non-RJ-Subject Obligations shall be restructured on the same terms, conditions, fees, and interest rates described in this Schedule III.</td></tr>
<tr><td>Maturity</td><td>December 31, 2026.</td></tr>
<tr><td>Interest

(paid/capitalized March, June, September, December)</td><td>Prior to the Restructuring Closing Date, Bradesco shall indicate whether interest will accrue on the Restructured Bradesco Debt at a fixed rate or floating rate. No less than three (3) business days prior to each interest payment date, Constellation Holding shall notify Bradesco whether the interest on such interest payment date shall be made in cash or as payment-in-kind. Based on such elections, interest will accrue for each interest period based on the applicable interest rate selected pursuant to the table below. Interest shall be paid or capitalized, as applicable, on the last business day of March, June, September and December of each year.
<table>
<tr><th>Interest Rate Type</th><th>Interest Rate</th></tr>
<tr><td>Floating PIK Interest Rate</td><td>▪ SOFR plus 3% per annum</td></tr>
<tr><td>Fixed PIK Interest Rate</td><td>▪ 4% per annum</td></tr>
<tr><td>Floating Cash Interest Rate</td><td>▪ SOFR plus 2% per annum</td></tr>
<tr><td>Fixed Cash Interest Rate</td><td>▪ 3% per annum</td></tr>
</table></td></tr>
<tr><td>Amortization</td><td>None.</td></tr>
<tr><td>Excess Cash Flow</td><td>See Schedule IX.</td></tr>
<tr><td>Collateral</td><td>Same as for the New 2026 First Lien Notes, subject to the Tranche 2/3 Permitted Priority Liens, subject to the Tranche 2/3/4 Intercreditor Agreement.</td></tr>
<tr><td>Guarantors</td><td>Same as for the New 2026 First Lien Notes.</td></tr>
<tr><td>Covenants</td><td>Restructured Bradesco Debt covenant package to be substantially consistent with the covenant package for the New 2026 First Lien Notes.</td></tr>
<tr><td>Events of Default</td><td>Existing events of default, subject to:
▪ removal of “Material Adverse Event” event of default;
▪ addition of a cross-default for any default under the New ALB L/C Debt; and
▪ addition of an event of default for breach of the Minimum Liquidity Covenant, subject to a 45-day cure period.</td></tr>
<tr><td>Convertibility</td><td>▪ Upon a Qualifying Liquidity Event, as described in Schedule VIII, the aggregate outstanding amount of the Restructured Bradesco Debt shall convert into Class C-3 Stock entitled to receive Net Liquidity Proceeds from such Qualifying Liquidity Event equal to the Bradesco Conversion Amount (as defined below). After the occurrence of the Notice Date (as defined herein), Bradesco shall have fifteen (15) business days to evaluate appropriate internal</td></tr>
</table>

	structures through which it may receive and hold such Class C-3 Stock in order to regulatory restrictions or other risks applicable to it; it being understood and agreed Company shall reimburse up to an aggregate amount of $100,000 for Bradesco's costs and expenses incurred in connection with the formation and implementation of such internal structure. Notwithstanding anything to the contrary, Bradesco's implementation of such an appropriate internal structure to receive and hold such Class C-3 Stock shall not be a condition to (and its failure to do so shall not prevent the consummation of) a Qualifying Liquidity Event, nor give rise to any claim against or liability of any party to Bradesco. ▪ "**Bradesco Conversion Amount**" means an amount equal to (i) the Debt Conversion Amount times (ii) the percentage of the total Outstanding Amount of the Convertible Debt represented by the Outstanding Amount of the Restructured Bradesco Debt.

Schedule IV

Tranche 4: New 2050 Second Lien Notes

Principal Amount	U.S.$1,888,434, which will accrue interest commencing on the Restructuring Closing Date.
Maturity	December 31, 2050.
Interest (capitalized March, June, September, December)	0.25% PIK. Interest shall be capitalized on the last business day of March, June, September and December of each year.
Amortization	None.
Excess Cash Flow	See Schedule IX.
Collateral	Second lien on the same collateral securing the 2024 Fourth Lien Notes, subject to the Tranche 2/3/4 Intercreditor Agreement.
Guarantors	Same as for the 2024 Fourth Lien Notes, other than certain non-operating entities to be agreed, which non-operating entities will be dissolved prior to the Restructuring Closing Date.
Covenants	None.
Convertibility	▪ Upon a Qualifying Liquidity Event, as described in Schedule VIII, the aggregate outstanding amount of the New 2050 Second Lien Notes and the New Unsecured Notes shall convert into Class C-4 Stock entitled to receive Net Liquidity Proceeds from such Qualifying Liquidity Event equal to the Junior Notes Conversion Amount (as defined below). ▪ "**Junior Notes Conversion Amount**" means an amount equal to (i) the Debt Conversion Amount times (ii) the percentage of the total Outstanding Amount of the Convertible Debt represented by the Outstanding Amount of the New 2050 Second Lien Notes and the New Unsecured Notes.

Schedule V

Tranche 5: New Unsecured Notes

Principal Amount	U.S.$3,111,566, which will accrue interest commencing on the Restructuring Closing Date.
Maturity	December 31, 2050.
Interest (capitalized March, June, September, December)	0.25% PIK. Interest shall be capitalized on the last business day of March, June, September and December of each year.
Amortization	None.
Excess Cash Flow	See Schedule IX.
Collateral	None.
Guarantors	Same as for the 2030 Unsecured Notes.
Covenants	None.
Convertibility	Upon a Qualifying Liquidity Event, as described in Schedule VIII, the aggregate outstanding amount of the New 2050 Second Lien Notes and the New Unsecured Notes shall convert into Class C-4 Stock entitled to receive Net Liquidity Proceeds from such Qualifying Liquidity Event equal to the Junior Notes Conversion Amount.

Schedule VI

New Priority Lien Notes

Principal Amount	U.S.$60,000,000 *plus* U.S.$2,400,000 (as a commitment fee to the New Money Lenders), which will be disbursed and accrue interest commencing on the Restructuring Closing Date. Notwithstanding the nature of Non-RJ-Subject Obligations of the New Priority Lien Notes, the Company, the New Money Lenders and the Consenting Stakeholders agree that such Non-RJ-Subject Obligations shall be restructured on the same terms, conditions, fees, and interest rates described in this Schedule VI.
New Money Commitment Agreement	A commitment agreement in the form attached hereto as **Exhibit B** (the "**New Money Commitment Agreement**") providing for the terms of the New Money Financing is to be entered into by Constellation Holding and the New Money Lenders.
Issuer	Constellation Holding.

Refinancing Right	▪ Other than in connection with a Liquidity Event, non-callable until the 18-month anniversary of the Restructuring Closing Date and after as follows:
	  ▪ following the 18-month anniversary of the Restructuring Closing Date until and including the 24-month anniversary of the Restructuring Closing Date, at 113.5%;
	  ▪ following the 24-month anniversary of the Restructuring Closing Date until and including the 30-month anniversary of the Restructuring Closing Date, at 106.75%; and
	  ▪ thereafter, at 103.375%.
	▪ In connection with a Liquidity Event, callable as follows:
	  ▪ from the Restructuring Closing Date until and including the 12-month anniversary of the Restructuring Closing Date, at 113.5%;
	  ▪ following the 12-month anniversary of the Restructuring Closing Date until and including the 24-month anniversary of the Restructuring Closing Date, at 106.75%; and
	  ▪ thereafter, at 103.375%.
	▪ Notwithstanding anything to the contrary, there shall be no call premium if a payment occurs (i) while an event of default shall have occurred and be continuing under, (x) in the case of a payment in connection with the Tranche 1 collateral, any of the New Priority Lien Notes or the Restructured ALB Loans, and (y) in the case of a payment in connection with the Tranche 2/3 collateral, the New 2026 First Lien Notes, the New Priority Lien Notes or the Restructured Bradesco Debt, or (ii) in connection with a liquidation of the Company.

Maturity	The three-year anniversary of the funding date of the New Priority Lien Notes.
Interest (paid March, June, September, December)	13.5% per annum payable in cash on the last day of March, June, September and December of every year commencing the first March, June, September or December, as applicable, following the Restructuring Closing Date.
Amortization	▪ Prior to the 16-month anniversary of the Restructuring Closing Date: None. ▪ From the 16-month anniversary of the Restructuring Closing Date until and including the 24-month anniversary of the Restructuring Closing Date: 8% per quarter of the original principal amount.

	▪ Thereafter: 19% per quarter of the original principal amount.
Excess Cash Flow	None.
Collateral	Super senior priority lien on the collateral securing the (i) Restructured ALB Loans, up to the Tranche 1 New Notes Lien Cap and (ii) New 2026 First Lien Notes and the Tranche 3 and Tranche 4 debt, up to the Tranche 2/3 New Notes Lien Cap, in each case, subject to the Tranche 2/3/4 Intercreditor Agreement. Collateral (which shall also secure the Restructured Bradesco Debt on a *pari passu* basis, subject to the Tranche 2/3/4 Intercreditor Agreement) to also include super senior priority lien (subject to the Tranche 2/3/4 Intercreditor Agreement) on: 1. onshore rigs (currently owned, directly or indirectly, by the Company or afterward acquired, including, without limitation, QG-I, QG-II, QG-III, QG-IV, QG-V, QG-VI, QG-VII, QG-VIII, and QG-IX) (the "**Onshore Rigs**"); *provided that* the Company shall only be required to take commercially reasonable efforts to provide such lien and in any event, such lien shall not be required to be in place prior to the Restructuring Closing Date; 2. all rights, title, interest and benefits in all agreements (including, without limitation, receivables, charters, contracts and insurance agreements) arising from the Onshore Rigs and the drilling vessels Olinda Star, Alpha Star, Lone Star, Gold Star and Atlantic Star (the "**Specified Offshore Rigs**"), directly or indirectly, including, without limitation, intercompany agreements; bareboat charter agreements; agreements between direct or indirect owners of Onshore Rigs and/or Specified Offshore Rigs, as applicable, and charterers, and agreements between charterers and third parties (the "**Onshore and Offshore Agreements**"); *provided that* (i) the Company shall only be required to use commercially reasonable efforts to obtain a lien over any Onshore and Offshore Agreement where the consent of such counterparty is required to obtain such a lien, to the extent that no other party has or obtains a lien over such an agreement and (ii) to the extent such consent is obtained or otherwise not required, any such lien shall only be required to be in place within 180 days of the Restructuring Closing Date; and 3. pledge of all shares in entities that are Guarantors of the New Priority Lien Notes; *provided* that no such lien shall be required if such lien (i) is prohibited by, or in violation of, any applicable law to which such prospective guarantor is subject or (ii) would require a governmental (including regulatory) consent, approval, license or authorization; *provided further* that such violation cannot be prevented or such consent, approval, license or authorization cannot be obtained, as applicable, using commercially reasonable efforts. Holders of a majority of the outstanding principal amount of the New Priority Lien Notes may release or waive any collateral securing the New Priority Lien Notes; *provided that* holders of 66 2/3% of the New Priority Lien Notes must consent to release all or substantially all of the collateral securing the New Priority Lien Notes.
Guarantors	Each guarantor of the Restructured ALB Loans and the New 2026 First Lien Notes. Guarantors also to include any other Company Parties that are party to agreements related to the collateral securing the 2024 Participating Notes (including the entities owning the Onshore Rigs, Serviços de Petróleo Constellation Participações S.A., Serviços de Petróleo Onshore Constellation, and Serviços de Petróleo Constellation S.A.), including intercompany agreements, insurance and/or receivables related to the drilling rigs; *provided that* no such guarantee shall be required if such guarantee (i) is prohibited by, or in violation of, any applicable law to which such prospective guarantor is subject, (ii) would require a governmental (including regulatory) consent, approval, license or authorization, or (iii) is a listed in Schedule X to the PSA as an entity to be dissolved, merged, liquidated or otherwise

	wound down; *provided further*, for purposes of clauses (i) and (ii), that such violation c prevented or such consent, approval, license or authorization cannot be obtained, as applicab commercially reasonable efforts. Holders of a majority of the outstanding principal amount of the New Priority Lien Notes may release any guarantor of the New Priority Lien Notes.
Covenants	Covenant package to be negotiated and determined (but will be no less restrictive than the covenant packages for any of the Convertible Debt other than any "project-finance"-type covenants under the Restructured ALB Credit Agreement). The reporting obligation will be consistent with the reporting covenant for the Restructured ALB Loans (subject to entry by the New Money Lenders into non-disclosure agreements (which will be a "click-through") in respect of any material non-public information). Covenant package to include the use of commercially reasonable efforts by the Company to list the New Priority Notes on the official list of the Luxembourg Stock Exchange following the Restructuring Closing Date.
Convertibility	None.
Asset Sale and Insurance Proceeds Covenant	▪ Sales or insurance proceeds, as applicable, from Tranche 1 collateral must be 100% for cash or cash equivalents unless otherwise approved by the Required Consenting Lenders and a majority of the holders of the New Priority Lien Notes and (i) 100% of the first U.S.$50.0 million of the aggregate amount of all such proceeds and 50% of the aggregate amount of all such proceeds in excess of U.S.$50.0 million shall be used to make a paydown on a *pro rata* basis of the Restructured ALB Loans and/or Priority CapEx Debt (up to the then-applicable ALB CapEx Lien Cap), and (ii) 50% of the aggregate amount of all such proceeds in excess of U.S.$50.0 million shall be used to redeem the New Priority Lien Notes up to the then-applicable Tranche 1 New Notes Lien Cap *plus* the applicable call premium on such amount. ▪ Sales proceeds of Olinda Star Ltd. (In Provisional Liquidation) ("**Olinda**") must be 100% for cash or cash equivalents, and sale proceeds of any Onshore Rig Collateral (as defined in the Notes Intercreditor Agreement) must be 100% for cash or cash equivalents, in each case, unless otherwise agreed by a majority of the holders of the New 2026 First Lien Notes, a majority of the New Priority Lien Notes, and Bradesco, and (i) 100% of the first U.S.$10.0 million of the aggregate amount of all such sales proceeds and (ii) 50% of the aggregate amount of all such sales proceeds in excess of U.S.$20.0 million shall be used to make an asset sale offer to the holders of the New 2026 First Lien Notes and repay the Restructured Bradesco Debt, *pro rata*, at par. Any asset sale proceeds that are not applied pursuant to the prior sentence must be used to make capital expenditures on Tranche 2/3 first lien collateral. ▪ Sales proceeds from any other Tranche 2/3 collateral must be 100% for cash or cash equivalents and (i) 100% of the first U.S.$50.0 million (lowered by any sales proceeds of Olinda and/or Onshore Rig Collateral used to redeem the New 2026 First Lien Notes, the Priority CapEx Debt and the Restructured Bradesco Debt, *pro rata*, above) of any such sales proceeds and 50% of any such amounts in excess of U.S.$50.0 million shall be used to make an asset sale offer to the holders of the New 2026 First Lien Notes and repay the Restructured Bradesco Debt, *pro rata*, at par, and (ii) 50% of any such amounts in excess of U.S.$50.0 million and any amounts not subscribed for pursuant to prior clause (i) shall be used to redeem the New Priority Lien Notes up to the then-applicable Tranche 2/3 New Notes Lien Cap *plus* the applicable call premium on such amount. Any such redemption in clause (ii) above shall not impact the amortization schedule of the New Priority Lien Notes but shall lower the Tranche 2/3 New Notes Lien Cap for the New 2026 First Lien Notes to the extent that any such proceeds are used to redeem the New Priority Lien Notes. ▪ Notwithstanding the provisions in bullets 1, 2 and 3 above, if a default or event of default shall have occurred and be continuing under the New Priority Lien Notes, all proceeds described in

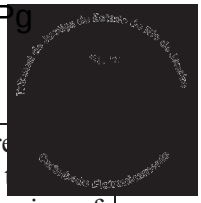
	such bullets shall be first applied to repay the New Priority Lien Notes (i) for sales of the Tranche 1 collateral, or insurance proceeds therefrom, up to the then-applicable Tranche 1 New Notes Lien Cap or (ii) for sales of the Tranche 2/3 collateral, up to the then-applicable Tranche 2/3 New Notes Lien Cap, and any remaining sales proceeds, if any, shall then be used to repay (i) *first*, (x) for sales of the Tranche 1 collateral, the Priority CapEx Debt up to the then-applicable ALB CapEx Lien Cap, or (y) for sales of the Tranche 2/3 collateral, the Priority CapEx Debt up to the Rigs CapEx Lien Cap and (ii) *second* (x) for sales of the Tranche 1 collateral, the Restructured ALB Loans in full, or (y) for sales of the Tranche 2/3 collateral, the New 2026 First Lien Notes at par and the Restructured Bradesco Debt at par, *pro rata*.
Conditions	Subject to the completion of due diligence and the completion of Definitive Documentation, in each case, to the satisfaction of the New Money Lenders.
Events of Default	Same as for the New 2026 First Lien Notes.
Exit Fee	None.
Additional Amounts	Full gross-up by the Company for any withholding taxes imposed upon payments of principal, interest and premium.
Contingent Value Rights	On the Restructuring Closing Date, the New Money Lenders shall receive Contingent Value Rights on a *pro rata* basis, as described in Schedule VIII hereto.

Schedule VII-A

Equity Matters and Shareholder Arrangements

New Shareholders' Agreement	A new shareholders' agreement (the "**New Shareholders' Agreement**")[5], is to be entered into by Constellation Holding, all holders of the Class A Stock of Constellation Holding, including LuxCo (the "**Class A Shareholders**" and such stock the "**Class A Stock**"), all holders of Class B-1 Stock of Constellation Holding (i.e., the 2024 Participating Notes) (the "**Class B-1 Shareholders**"), all holders of warrants to acquire Class B-2 Stock of Constellation Holding (i.e., Brava Cashless Warrants) (together with the Class B-1 Shareholders, the "**Class B Shareholders**" and such stock, the "**Class B Stock**"), all agents under the Restructured ALB Loans, which become convertible into shares of Class C-1 Stock of Constellation Holding (the "**Class C-1 Convertible Debtholders**"), a trustee for holders of the New 2026 First Lien Notes, which become convertible into shares of Class C-2 Stock (the "**Class C-2 Convertible Debtholders**"), Bradesco, as agent under the Restructured Bradesco Debt, which becomes convertible into shares of Class C-3 Stock (the "**Class C-3 Convertible Debtholders**"), and all trustees and agents for holders of the New 2050 Second Lien Notes and the New Unsecured Notes, which become convertible into shares of Class C-4 Stock (collectively with the Class C-1 Convertible Debtholders, the Class C-2 Convertible Debtholders, and the Class C-3 Convertible Debtholders, the "**Class C Convertible Debtholders**" and such stock, the "**Class C Stock**" and, the Class C Convertible Debtholders, the Class B Shareholders and the Class A Shareholders, collectively, the "**Shareholders**"). For the avoidance of doubt, the Class A Stock, Class B-1 Stock, Class B-2 Stock, Class C-1 Stock, Class C-2 Stock, Class C-3 Stock and Class C-4 Stock shall constitute all of reorganized Constellation Holding's equity (collectively, the "**Share Capital**") and shall have the rights and privileges set forth herein.
No Antidilution Protections	There shall be no antidilution protections (other than the preemptive rights as described herein) for any common stock, equity, CVRs, warrants or rights to acquire equity held or to be issued on or following the Restructuring Closing Date to any of the Parties.
Legacy Shareholder Contingent Value Rights	On the Restructuring Closing Date, LuxCo and CIPEF shall be allocated Contingent Value Rights in amounts equal to 7.5% and 2.5% of the Share Capital, respectively. To the extent that a Legacy Shareholder (or the Trust on its behalf) transfers any of its Class A Stock, the CVRs allocated to such Legacy Shareholder must be transferred, on a *pro rata* basis, with such transferred Class A Stock (i.e., such Class A Stock and CVRs must be transferred together). Transferees of the Class A Stock and CVRs of the Legacy Shareholders shall receive shares and CVRs in Constellation Holding (respectively, "**Transferee Class A Stock**" and "**Transferee CVRs**") having the same terms, rights and characteristics as the Class A Stock and the CVRs previously held by the Legacy Shareholders, except that any holder of Transferee Class A Stock and Transferee CVRs that is not affiliated with the Legacy Shareholders is not obligated to make a *pro rata* transfer of Transferee CVRs in the event such holder transfers its Transferee Class A Stock. For the avoidance of doubt, any transfer of the LuxCo Interests will be subject to compliance with the terms and conditions of the Trust Documents, which shall be consistent with the provisions hereof.
Permitted Share Transfers; Drag Rights;	▪ Shareholders (including holders of Brava Cashless Warrants) shall have *pro rata* tag-along rights in respect of any sale of more than 50% of the Share Capital (assuming the full conversion of the Brava Cashless Warrants) by a person or group in a single transaction or

[5] The Trust Documents will conform to and incorporate certain provisions of the New Shareholders' Agreement.



Tag-Along Rights; Preemptive Rights	series of related transactions (other than to affiliates or among then-existing Share or CVR holders of the Company (other than any Shareholder or CVR holder that, with its affiliates, held less than 3% of the Share Capital (assuming the full conversion of the Brava Cashless Warrants, but excluding any Share Capital and Brava Cashless Warrants acquired in contemplation of such purchase) immediately prior to such purchase)). ▪ All holders (including transferees) of equity instruments (including all stock, warrants, CVRs and convertible instruments) may be dragged in connection with a Liquidity Event as described in "Liquidity Event" in Schedule VIII hereto, subject to the terms and conditions in the New Shareholders' Agreement. ▪ Shareholders (including LuxCo and holders of Brava Cashless Warrants) shall have preemptive rights for any new issuance of shares or any other securities convertible into shares; *provided that* LuxCo (whether or not the shares are then held by the Trust) (or any transferee) shall have *pro rata* preemptive rights entitling it to purchase additional shares to maintain its equity percentage in restructured Constellation Holding, and any shares obtained pursuant to the exercise of such preemptive rights shall not be issued into the Trust but shall instead be held directly by LuxCo (or any transferee); *provided, further*, that if any Shareholder obtains more favorable preemptive rights (such as the right to purchase additional shares to increase its equity percentage in restructured Constellation Holding), such rights shall be given to all Shareholders (including LuxCo). ▪ Other than as described in the PSA, this Term Sheet and the other Definitive Documentation, there shall be no other restrictions on transfer of shares, including, for the avoidance of doubt, no requirement to provide any other Shareholder with a right of first offer or refusal.
Board Composition	See Schedule VII-B.
Board Observer	The Legacy Shareholders shall be entitled to appoint one non-voting observer (the "**Board Observer**") to the Board so long as the Legacy Shareholders, on an aggregate basis, hold Class A Stock representing at least twenty percent (20%) of the of the outstanding Share Capital. CIPEF shall have the exclusive right to nominate and appoint such Board Observer, subject to the reasonable consent of the Company (such consent not to be unreasonably withheld, delayed, or conditioned). The right to nominate and/or appoint the Board Observer is non-transferable to any other party. The Board Observer and the Company shall execute a mutually acceptable confidentiality agreement as a condition to being seated on the Board. The Board Observer shall: (i) be a natural person and shall satisfy the terms and condition specified under "Director Criteria" on Schedule VII-B hereto; (ii) be entitled to be present at all meetings, however undertaken, and be notified of any such meeting in the same manner as the Board and will be provided with the same materials and information provided to the Board (and at the same time); and (iii) not be entitled to any compensation or reimbursement for any out-of-pocket costs and expenses associated with its participation. Notwithstanding anything to the contrary herein: ▪ The Company shall have the right not to provide the Board Observer with copies of, or access to, any material or information and the Board Observer may be excluded from

	access to any meeting of the Board or portion thereof if, in any case, (1) the C or a majority of the Board reasonably believes in good faith, that such excl necessary (i) to preserve the attorney-client privilege; (ii) to comply with any applicable laws, rules or regulations; (iii) to not disclose information (a) with respect to any proposed Charter Agreements or any non-ordinary course transaction or matters, (b) that constitute non-financial trade secrets or non-financial proprietary information, and (c) regarding the relationship between the Company and any Shareholder(s) or any holder(s) of the Brava Cashless Warrants; (iv) to protect confidential information of the Company or any third party; (v) if there exists an actual or potential conflict of interest with respect to the Board Observer and a particular matter or transaction under consideration by the Board or any committee thereof; (vi) to preserve or protect the exercise of the Board's fiduciary duties; or (vii) the Board Observer fails to agree to and observe in any material respect the Company's applicable policies and procedures, including any insider trading policy, governing the obligations of directors and executive officers, or (2) to the extent a majority of the Board, in its reasonable business judgment, determines that it is otherwise appropriate or necessary to exclude the Board Observer from such materials and/or access. ▪ The foregoing limitations shall not be used by the Company to circumvent the obligation to provide access and information to the Board Observer. Notwithstanding the foregoing, subject to the execution of a confidentiality agreement between the Company, the Board Observer and the Legacy Shareholders (which shall be reasonably satisfactory to the Company), the Board Observer shall be permitted to share any and all information (including material non-public information) with the Legacy Shareholders. For the avoidance of doubt, such confidentiality agreement will not contain any "cleansing" or similar provisions permitting or requiring the disclosure of information provided thereunder.
Dividends and Distributions	Any Company dividends or distributions must be issued to and shared *pro rata* among all outstanding shares of common stock; *provided that* dividends and distributions are not required to be on a *pro rata* basis for purposes of Liquidity Event Proceeds of a Qualifying Liquidity Event being distributed in accordance with Schedule VIII hereto. For the avoidance of doubt, the Definitive Documentation governing indebtedness will include prohibitions on dividends, consistent with the existing prohibitions in such documents.
Management Incentive Plan	The Board will formulate a management incentive plan (the "**MIP**") within 90 days of the Restructuring Closing Date; *provided, however*, that there will be no MIP if the Company's management team (or any member thereof) has existing contracts and/or incentive rights that have not been disclosed to the Ad Hoc Group, the ALB Lenders, or any Shareholder; *provided further* that the Board shall decide all terms and conditions of the MIP, including, without limitation, the participants (the "**MIP Participants**"), the allocations, and the calculations of awards, in consultation with an internationally recognized compensation consultant that will advise it on developing and implementing the MIP structure and ensuring that the MIP is consistent with market standards.
Information Rights	Each Shareholder, subject to execution of a confidentiality agreement (which shall be a "click-through" agreement) with the Company, shall have access to, and be provided with, the following information: ▪ annual audited financial statements; ▪ quarterly unaudited financial statements; ▪ all public filings made with any securities exchange or securities regulatory agency or authority; and

	▪ such other information as is consistent with the rights provided under Luxembo for all shareholders. The Legacy Shareholders, upon reasonable notice and during normal business hours and at reasonable intervals, will be provided to access to the books and records and senior management of the Company, in each case, solely for the purposes of facilitating the sale of such Legacy Shareholders' Equity Interests. In addition, the Company shall grant to (i) LuxCo, (ii) the investment bank to be retained by LuxCo to perform the valuation of the LuxCo Interests and to commence the sale process thereof, (iii) any proposed transferee of the Legacy Shareholders' Equity interests, and (iv) any investment bank or other financial advisors of such transferee, in each case subject to the execution of a confidentiality agreement, information and management access rights that are reasonably necessary for each of them, as applicable, to conduct valuation and/or due diligence in connection with the sale and purchase of the Legacy Shareholders' Equity interests, including, without limitation, access to the books and records and senior management of the Company. In each case, such information and access rights shall be subject to execution by the applicable party and the Company of a confidentiality agreement (which shall be reasonably satisfactory to the Company), which, for the avoidance of doubt, will not contain any "cleansing" or similar provisions permitting or requiring the disclosure of information provided thereunder.
Amendments	Amendments to the New Shareholders' Agreement may be approved in writing by the holders of a majority of the outstanding Share Capital (including the Brava Cashless Warrants), voting as a single class; *provided that* any amendment to certain key terms (e.g., preemptive rights, dividend rights, drag-along rights, tag-along rights, permitted transfers, Board composition, and information rights) must be approved by the holders of majority of the outstanding Share Capital of each class, voting separately. No amendment will be effective as to a particular Shareholder if such amendment by its terms would materially and adversely affect such Shareholder without similarly and proportionately adversely affecting all Shareholders, unless such Shareholder has voted in favor thereof.
Registration Rights	The Shareholders will have demand and piggyback registration rights (on terms to be agreed) in the event of any initial public offering of Constellation Holding.
Existing Legacy Shareholder Agreements	The Legacy Shareholder Terminating Agreements (as defined in the PSA) will be terminated and there shall be no obligation or liability of the Company Parties arising from such termination.

Schedule VII-B

Board Composition

	Restructuring Closing Date Board (7 directors)	**Post-Restructuring Closing Date Board; Pre-Sale of LuxCo Interests to Acceptable Buyer (7 directors)**	**Post-Restructuring Closing Date Board; Post-Sale of LuxCo Interests to Acceptable Buyer (9 directors)**
Board Composition	The Board will consist of: • 3 directors designated by the members of the Ad Hoc Group, with each member of the Ad Hoc Group separately designating 1 of the 3 directors; • 1 director designated by the New Money Lenders; • Jaap Jan Prins[6]; and • 2 directors, which shall be Luxembourg residents designated by a third-party corporate services firm (such firm designated by the Ad Hoc Group).	The Board will consist of: • 4 directors elected from a slate proposed by a majority of the Class B-1 Shareholders; • 1 director elected from a slate proposed by a majority of the Class B Shareholders; and • 2 directors, which shall be Luxembourg residents, elected from a slate proposed by a third-party corporate services firm (such firm designated by a majority of the Class B-1 Shareholders).	The Board will consist of: • 5 directors elected from a slate proposed by a majority of the Class B-1 Shareholders; • 1 director elected from a slate proposed by a majority of the Class B Shareholders; • 2 directors, which shall be Luxembourg residents, elected from a slate proposed by a third-party corporate services firm (such firm designated by a majority of the Class B-1 Shareholders); and • for so long as the Acceptable Buyer (as defined in the New Shareholders' Agreement) of the LuxCo Interests holds Class A Shares that represent at least 10% of the outstanding Share Capital, 1 director elected from a slate proposed by a majority of the Class A Shareholders.
Director Criteria	All potential directors must meet certain criteria, which shall be set forth in the New Shareholders' Agreement, including, without limitation, that each such person: (i) cannot be (a) a creditor or current or former direct or indirect shareholder of Constellation (including LuxCo, FIP or any transferee of the LuxCo Interests), (b) either a current or		

[6] Alternatively, solely to the extent the appointment of Jaap Jan Prins is not possible on the Restructuring Closing Date, a director designated by the Required Consenting Lenders at their discretion.

	former "Insider"[7] or a "Controlling Person"[8] of any either creditor or direct or shareholder of Constellation (including LuxCo, FIP or any transferee of the Interests), or (c) a "Prohibited Person;"[9] and (ii) must be "independent"[10] from the Company. The foregoing requirements and conditions may be waived by a majority of the Board acting in good faith and in a manner consistent with the best interests of the Company; *provided, however*, that if any such requirements or conditions in clauses (i) or (ii) above are so waived with respect to any director, then the same requirements or conditions in clauses (i) or (ii) above shall also be waived, to the same extent, with respect to the director appointed by the Acceptable Buyer. In addition, all potential directors must undergo a background check and compliance training prior to being seated as a director, which background check and training shall be conducted by the Company's compliance department. The results of the background check shall be satisfactory to the Consenting Stakeholders (prior to the Restructuring Closing Date) or the majority of the Board (after the Restructuring Closing Date). Any director candidate nominated by the Class A Shareholders, Class B Shareholders or Class B-1 Shareholders, as contemplated hereunder will be subject to approval by the Board (or a nominating committee established by the Board) after a determination by the Board (or such committee) (in each case, acting reasonably and in good faith) that the appointment of the director would satisfy the requirements hereof and would not be inconsistent with the best interests of the Company.
Chairman of Board	The chairman of the Board shall be selected by a majority of Board.
Committees	The committees of the Board shall be determined by a majority of the Board.

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[7] "Insider" means family members, partners, directors, officers, employees or controlling persons and the relatives of the foregoing.

[8] "Controlling Person" means any person with the direct or indirect power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities, contract, or otherwise.

[9] "Prohibited Person" means, in the determination of the Board, any person or entity (i) (a) convicted of (or who pleaded nolo contendere or the equivalent to such plea) a felony or other crime or (b) who is, or has been, the subject of any order, judgement, writ, decree or other determination, decision or ruling of any governmental entity or body, court, judge, justice or magistrate or similar authority involving self-dealing, fraud, embezzlement or acts of moral turpitude; or (ii) (a) identified on any list maintained by a Sanctions Authority (which shall include the United Nations Security Council, United States governmental entities, European Union governmental entities and United Kingdom governmental entities) of parties with whom or with which transactions are prohibited or restricted, (b) established, located or resident in or organized under the laws of a Sanctioned Country (which shall include any country, territory or authority identified on a list maintained by a Sanctions Authority), (c) that is the subject or target of any Sanctions Laws (which shall include any applicable national or international economic or trade sanctions, embargoes or other measures imposed by a Sanctions Authority), or (d) an affiliate of any competitor of the Company.

[10] To qualify as "independent," a potential director (and such director's immediate family members) must not: (i) be an officer of the Company; (ii) have been employed by the Company or its shareholders within the prior 3 years; (iii) have received compensation (other than director fees and similar forms of compensation for service) from the Company or its shareholders in excess of U.S.$120,000 during any 12-month period within the prior 3 years; or (iv) be a shareholder, officer or director of an entity that (1) has made payments to, or received payments from, the Company or its shareholders in excess of U.S.$100,000 within the prior 3 years; or (2) is (or has been within the prior 3 years) a material supplier, service provider and/or customer of the Company.

Term	Directors shall serve for 6-year terms.
Removal	Shareholders that designated a director may at any time and for any reason (or no reason) propose the dismissal of such director. Shareholders shall vote on such dismissal.
Replacement	If a director is removed, resigns or is unable to serve as a director for any reason, the majority of the remaining members of the Board may replace such director until such time as (i) the relevant class of Shareholders that designated such director can propose a list of candidates for a replacement and (ii) a replacement is elected by the Shareholders from such candidates, such list to be provided at the next general meeting. For the avoidance of doubt, if the director appointed by the Acceptable Buyer is removed, resigns or is unable to serve as a director for any reason, the Acceptable Buyer shall be entitled to replace such director in a manner consistent with this Schedule VII-B and applicable Luxembourg law.

Schedule VII-C

[Redacted]

Schedule VIII

Liquidity Event / Debt Conversion

Liquidity Event	"**Liquidity Event**" means, with respect to Constellation Holding, any of the following, directly or indirectly, in one transaction or a series of related transactions to which Constellation Holding is a party: ▪ any merger or consolidation (whether or not Constellation Holding is the surviving entity), other than a merger or consolidation of Constellation Holding with one or more of its 100% owned direct or indirect subsidiaries; ▪ any stock purchase, business combination, tender or exchange offer, or any other transaction, pursuant to which any "person" or "group" (as defined under Section 13(d) of the Exchange Act) would acquire or otherwise hold beneficial ownership of more than 50% of the voting stock of Constellation Holding; or ▪ any sale, transfer, lease, exchange, encumbrance or other disposition of assets representing all or substantially all of the assets of Constellation Holding (including its subsidiaries, taken as a whole). If, at any time following the Restructuring Closing Date, any person and its affiliates acquire or otherwise hold beneficial ownership of more than 50% of the Share Capital (including the Brava Cashless Warrants), any such person and its affiliates shall be obliged to make a tender offer for all of the Share Capital (including, for the avoidance of doubt, any Share Capital issued upon the conversion of any debt in accordance with the terms hereof), which shall be based on the same (and no worse) terms and conditions of the prior acquisition. A Liquidity Event shall not be triggered by ordinary course market purchases or sales by any Shareholders; *provided that* a transaction or series of transactions that would trigger any of the foregoing events shall be deemed not to be ordinary course transactions. For the avoidance of doubt, for purposes of calculating whether a Liquidity Event has occurred and for any other purpose of this Term Sheet, the RJ Plan Amendment, the PSA and the related final documentation, CIPEF shall not be considered an affiliate of the funds or accounts managed by Capital Research and Management Company or its affiliates that hold any 2024 Notes or New Notes.
Liquidity Event Approval	Within thirty (30) days following the date on which a Liquidity Event is approved by the Board, Constellation Holding shall deliver a notice to the holders of Restructured ALB Loans, the Restructured Bradesco Debt and the New 2026 First Lien Notes (the date on which such notice is delivered, the "**Notice Date**") requesting a determination as to whether such creditor group approves such Liquidity Event, together with such information relating to such Liquidity Event as is reasonably necessary for such creditors to make an informed decision or as may be reasonably requested by any holder of Restructured ALB Loans, the Restructured Bradesco Debt or the New 2026 First Lien Notes in order to make such determination, in each case, excluding information that is subject to attorney-client privilege and, with respect to any confidential information, subject to appropriate confidentiality agreements. The holders of the Restructured ALB Loans, the Restructured Bradesco Debt and the New 2026 First Lien Notes shall have fifteen (15) business days following the delivery of such notice by Constellation Holding to indicate their approval (subject to the requirements described herein), after which, absent delivery of a response indicating a rejection, approval shall be deemed given. If a Liquidity Event is approved by a majority of (i) the aggregate Outstanding Amount of the New 2026 First Lien Notes and (ii) the aggregate Outstanding Amount of Indebtedness under the Restructured Bradesco Debt, voting together (the "**Notes/Bradesco Majority**"), then:

	1. to the extent such Liquidity Event is also approved by a majority of the a Outstanding Amount of Restructured ALB Loans (including the approval of ALB Lenders thereunder) (the "**Required ALB Majority**"), the Convertible Debt shall, prior to the consummation of the Liquidity Event, be converted as described in the applicable Schedules I, II, III, IV and V hereto; or 2. to the extent such Liquidity Event is not approved by the Required ALB Majority, one or more of the holders of the Restructured Bradesco Debt and the New 2026 First Lien Notes may elect to purchase in full the Restructured ALB Loans at a price equal to 95% of the Outstanding Amount thereof (it being understood that in no circumstances may Bradesco be obligated to make such purchase in the absence of its election to do so), after which purchase the Convertible Debt shall, prior to the consummation of the Liquidity Event, be converted as described in the applicable Schedule I, II, III, IV and V hereto; *provided that*, if the Notes/Bradesco Majority does not elect to purchase in full the Restructured ALB Loans, the Liquidity Event shall be deemed rejected. If a Liquidity Event is not approved by the Notes/Bradesco Majority, the Required ALB Majority (or one or more of the lenders thereunder) may elect to redeem in full the New 2026 First Lien Notes and the Restructured Bradesco Debt at a price equal to 95% of the Outstanding Amount thereof, after which purchase the Convertible Debt shall, prior to the consummation of the Liquidity Event, be converted as described in the applicable Schedule I, II, III, IV and V hereto; *provided that*, if the Required ALB Majority does not elect to redeem in full the New 2026 First Lien Notes and the Restructured Bradesco Debt, the Liquidity Event shall be deemed rejected. Upon any decision by the Notes/Bradesco Majority and the Required ALB Majority to vote to approve a Liquidity Event, all Convertible Debt shall be converted in accordance with its terms. Upon the conversion of the Convertible Debt into the applicable Class C Stock, the obligations of Constellation Holding and any other borrowers and guarantors in respect thereof shall be deemed paid in full and terminated and the collateral securing such Convertible Debt shall be automatically released.
Liquidity Event Proceeds	If a Liquidity Event is approved (as described under "Liquidity Event Approval" above) and is consummated, the net proceeds (the value of which, if other than cash, will be determined by an independent investment bank engaged by the Board) from such Liquidity Event (the "**Liquidity Event Proceeds**") shall be distributed as follows: 1. *first*, for repayment in cash of the New Priority Lien Notes at the applicable call price; 2. *second*, for the repayment in cash of any Priority CapEx Debt in full; 3. *third*, for the repayment in cash of the New ALB L/C Debt in full (the remaining Liquidity Event Proceeds following the applications set forth in clauses (1) through (3) above, the "**Net Liquidity Proceeds**"); 4. *fourth*, an amount equal to the Debt Conversion Amount shall be distributed among the holders of the Class C Stock, in accordance with the calculation of the Debt Conversion Amount in Schedules I-IV, as applicable; and 5. *fifth*, the remainder shall be allocated to the Class A Stock and the Class B Stock, *pro rata.*
Contingent Value Rights	"**Contingent Value Rights**" or "**CVRs**" will entitle the holders thereof, in the aggregate, to receive (*pro rata* as among themselves), automatically in connection with the consummation of a Liquidity Event during the term of the CVRs, shares (on a fully diluted, cash-free basis, such that such shares shall automatically be converted into the applicable Liquidity Event consideration in connection therewith) which equate to, in the case of the New Money Lenders,

	2%, and in the case of the Legacy Shareholders (or their transferee(s)), 10%, of the ar which (i) the total enterprise valuation implied by the Liquidity Event (as determine independent investment bank engaged with respect to such Liquidity Event) exceeds (ii) U.S.$1.35 billion (and, if a Liquidity Event occurs and the consideration payable thereby does not exceed U.S.$1.35 billion, such CVRs shall automatically be terminated in full without any consideration therefor). The number of shares issuable pursuant to the CVRs shall be subject to dilution following the Restructuring Closing Date (i.e., for purposes of determining the number of shares issuable pursuant to the CVRs, it shall be assumed that the number of shares outstanding as of the date of the Liquidity Event will be equal to the number of Class A and Class B shares issued and outstanding (assuming full conversion of the Brava Cashless Warrants) immediately after the Restructuring Closing Date). For the avoidance of doubt, payments or issuances in respect of the CVRs (i) shall reduce consideration payable in respect of Class A Stock and Class B Stock with respect to the Liquidity Event and (ii) shall not reduce consideration payable in respect of Class C Stock with respect to the Liquidity Event.

Schedule IX

Excess Cash Flow Entitlement

Minimum Balance	U.S.$100.0 million.
Eligibility	The ALB Lenders, Bradesco and the holders of the New 2026 First Lien Notes will be entitled to participate in the excess cash flow sweep described below.
Excess Cash Flow Start Date	The Excess Cash Flow will be measured quarterly starting on March 31, 2023, and, thereafter, on June 30, September 30, December 31 and March 31 of each year (each, a "**Measurement Date**").
Excess Cash Flow Formula	The Excess Cash Flow formula is as follows: ▪ Adjusted Unrestricted Cash on each Measurement Date (after the payment of any financial interest due on such Measurement Date), *less* ▪ U.S.$100.0 million. "**Adjusted Unrestricted Cash**" shall mean Unrestricted Cash (based on the consolidated financial statements of the Company relating to the period ending on any applicable Measurement Date) as of the applicable Measurement Date *less* (1) charter mobilization fees for up to 6 months following date of receipt, (2) charter termination fees for up to 6 months following date of receipt, (3) net proceeds from any permitted new debt financing raised for capital expenditures, pending application, and (4) net proceeds from any permitted asset sales during the prior 6 months, pending application.
Application of Excess Cash Flow	Excess Cash Flow will be applied *pro rata* on the then-outstanding principal amount of (i) Tranche 1 and (ii) together, Tranches 2 and 3. The Tranche 1 entitlement will be applied 100.00% to Tranche 1 debt until Tranche 1 has been repaid in full. The Tranches 2 and 3 entitlement will be applied as follows: 1. Until Tranches 2A and 3A have been repaid in full: a. 74.6% to Tranche 2A; and b. 25.4% to Tranche 3A. 2. After Tranches 2A and 3A have been repaid in full, *pro rata* between Tranche 2B and Tranche 3B based on the then-outstanding principal amount.

Schedule X

RJ Debtors

- Constellation Oil Services Holding S.A.
- Alpha Star Equities Ltd. (In Provisional Liquidation)
- Lone Star Offshore Ltd. (In Provisional Liquidation)
- Gold Star Equities Ltd. (In Provisional Liquidation)
- Constellation Overseas Ltd. (In Provisional Liquidation)
- Star International Drilling Ltd. (In Provisional Liquidation)
- Snover International, Inc.
- Arazi S.a.r.l.
- Brava Star Ltd.
- Laguna Star Ltd.
- Amaralina Star Ltd.
- Serviços de Petróleo Constellation Participações S.A. (Under Judicial Reorganization)
- Serviços de Petróleo Constellation S.A. (Under Judicial Reorganization)
- Constellation Services Ltd. (In Provisional Liquidation)
- Lancaster Projects Corp.
- Manisa Serviços de Petróleo Ltda. (Under Judicial Reorganization)
- Tarsus Serviços de Petróleo Ltda. (Under Judicial Reorganization)

Schedule XI

Intercreditor Arrangements

Parties	An intercreditor agreement (the "**Master Intercreditor Agreement**") is to be entered into and/or amended or novated on the Restructuring Closing Date by agents/trustees of the Restructured ALB Loans, the Restructured Bradesco Debt, the issuer of the Evergreen L/C and the New Notes, in form and substance to be agreed. To the extent any Priority CapEx Debt is incurred, the lenders thereunder shall be required to sign a joinder to the Master Intercreditor Agreement (if not already party thereto).
Asset Sale and Standstill Period	▪ Other than in an enforcement scenario, as described in the following bullet, any sale or disposition of the Tranche 1 collateral shall be: (i) for at least the sum sufficient to pay amounts then outstanding, if any, under (A) the New Priority Lien Notes up to the then-applicable Tranche 1 New Notes Lien Cap *plus* the applicable call premium on such amount *plus* (B) the Priority CapEx Debt up to the then-applicable ALB CapEx Lien Cap (together, but excluding the call premium under (A), the "**Senior Liens Cap**"), in each case, pursuant to the asset sale provisions therein, and (ii) subject to the consent of the Required ALB Majority. ▪ If a default or event of default shall have occurred and be continuing under the New Priority Lien Notes or the Priority CapEx Debt, a standstill period of 90 days (or such longer period as may be agreed by the parties) shall apply (the "**Standstill Period**"). During the Standstill Period, the New Money Lenders, the Priority CapEx Debt lenders and the ALB Lenders (collectively, the "**Tranche 1 Secured Parties**") shall use good faith efforts to agree on an enforcement strategy, including for the sale or disposition of the Tranche 1 collateral. At any time during the Standstill Period, to the extent an enforcement strategy is approved by a majority of each of the (i) aggregate Outstanding Amount of the New Priority Lien Notes, (ii) aggregate Outstanding Amount of ALB CapEx Debt, and (iii) Required ALB Majority (collectively, the "**Required Creditors**"), then the Standstill Period shall end, and the Required Creditors shall implement the agreed enforcement strategy. ▪ If, during the Standstill Period, the ALB Lenders agree upon a sale or disposition of the Tranche 1 collateral that provides for proceeds sufficient to pay at least the Senior Liens Cap, the Standstill Period shall be extended for an additional 45 days (or such longer period as may be agreed by the Tranche 1 Secured Parties), during which period the ALB Lenders shall direct the sale or disposition of the Tranche 1 collateral if the only remaining step to effectuate such sale or disposition is the receipt of any necessary governmental and third-party approvals and consents. ▪ At the end of the Standstill Period, and subject to the Buyout Right set forth below, if no enforcement strategy shall have been agreed (and provided that the New Priority Lien Notes remain outstanding), the New Money Lenders may take any enforcement actions permitted by the applicable debt documents; *provided that* (i) the New Money Lenders will consult with the remaining Tranche 1 Secured Parties on an enforcement strategy, (ii) to the extent the enforcement strategy involves a marketing process, the Tranche 1 Secured Parties will be consulted with respect to such marketing process in order to maximize proceeds, and (iii) the Tranche 1 Secured Parties will obtain a fair valuation opinion from a qualified independent party to be engaged for any sale or disposition of the Tranche 1 collateral.
Retained Rights	At all times, each of the Tranche 1 Secured Parties shall retain the right to: ▪ accelerate its debt;

	▪ demand payment from the borrower; ▪ demand payment from any guarantor; ▪ sue the borrower or any guarantor for non-payment; ▪ obtain a judgment against the borrower or any guarantor; ▪ take action to preserve the perfection of its liens; ▪ file a proof of claim or statement of interest in the borrower's bankruptcy; ▪ vote on a plan of reorganization; and ▪ commence, or join with other creditors to commence, an involuntary bankruptcy against the borrower.
Buyout Right	▪ The ALB Lenders, acting as a single group, shall at any time have the right to purchase upon prior written irrevocable notice (each, an "**ALB Buyout Right**") an amount of the New Priority Lien Notes equal to the then-applicable Tranche 1 New Notes Lien Cap and an amount of the Priority CapEx Debt equal to the then-applicable ALB CapEx Lien Cap (with respect to each, the "**Purchase Price**") upon the occurrence of certain buyout trigger events to be agreed, including, without limitation, the occurrence of any of the following: ▪ commencement or termination of the Standstill Period; ▪ acceleration of the New Priority Lien Notes or the Priority CapEx Debt, respectively; ▪ occurrence of a payment default under the New Priority Lien Notes or the Priority CapEx Debt that remains uncured, or is not waived by the respective noteholders/lenders thereof, within 30 days; or ▪ commencement of bankruptcy proceedings of any of the Company Parties (other than the Brazilian RJ Proceeding and Ancillary Proceedings contemplated by this Term Sheet and the Plan Support Agreement). ▪ Following the exercise by the ALB Lenders of an ALB Buyout Right and the payment in full in cash of the Purchase Price for either or both of the New Priority Lien Notes and/or the Priority CapEx Debt as set forth above, (i) the ALB Lenders shall have all rights, remedies and obligations under the New Priority Lien Notes or the Priority CapEx Debt, as applicable, and (ii) the liens over the Tranche 1 collateral of the New Money Lenders and/or the Priority CapEx Debt lenders, as applicable, shall be automatically released, and the enforcement and collection rights in respect of the Tranche 1 collateral of the New Money Lenders and/or the Priority CapEx Debt lenders, as applicable, shall be automatically discharged.
Tranche 2/3/4 Collateral	The intercreditor arrangements with respect to the Tranche 2/3/4 collateral (the "**Tranche 2/3/4 Intercreditor Agreement**" and, together with the Master Intercreditor Agreement, the "**Intercreditor Agreements**") will be substantially consistent with the existing intercreditor agreement governing the arrangements amongst such collateral, with such modifications as may be required to reflect the terms of the Tranche 2/3/4 debt or as otherwise agreed by the Company Parties, the Required Consenting 2024 Noteholders and Bradesco; *provided that* Tranche 2/3/4 Intercreditor Agreement shall provide that the New Priority Lien Notes or the Notes/Bradesco Majority shall be the directing creditors in the event of any enforcement actions.
Certain Amendments to, and Refinancing of, Debt Documents	▪ No debt document may be amended, supplemented or otherwise modified or entered into to the extent such amendment, supplement or modification or the terms of any such new debt document would be prohibited by or inconsistent with any of the terms of the Intercreditor Agreements.

	▪ Each of the following amendments to the debt documents for the New Priority Li shall be subject to the consent of the Required Consenting Lenders: ▪ increasing the Tranche 1 New Notes Lien Cap; ▪ increasing the interest rate or any fees or premium applicable to the New Priority Lien Notes above an amount to be agreed; ▪ amending the scheduled maturity of the New Priority Lien Notes (other than an extension thereof); ▪ permitting the borrower to amend the document to provide for additional amounts to be used to make mandatory prepayments of the New Priority Lien Notes; ▪ adding additional restrictive covenants in the New Priority Lien Notes Indenture that prohibit the issuer from making payments of the Restructured ALB Loans; and ▪ subordinating the liens of the New Priority Lien Notes to the liens of any third party. ▪ The Intercreditor Agreements shall provide that each of the following shall be subject to the consent of Bradesco: ▪ extending the scheduled maturity of or (to solely the extent that such changes would adversely alter the obligations of Bradesco under the Evergreen L/C) increasing the interest rate or any fees or premium applicable under the New ALB L/C Debt; ▪ increasing the Tranche 2/3 New Notes Lien Cap or the Rigs Capex Lien Cap; ▪ increasing the interest rate or any fees or premium applicable to the New Priority Lien Notes above an amount to be agreed; ▪ amending the scheduled maturity of the New Priority Lien Notes (other than an extension thereof); ▪ permitting the borrower to amend the document to provide for additional amounts to be used to make mandatory prepayments of the New Priority Lien Notes; ▪ adding additional restrictive covenants in the New Priority Lien Notes Indenture that prohibit the issuer from making payments of the Restructured ALB Loans; and ▪ subordinating the liens of the New Priority Lien Notes to the liens of any third party.
General Principles	The Intercreditor Agreements shall contain customary provisions from U.S.-style intercreditor agreements to be agreed, including, without limitation, the priority of liens, a prohibition on contesting liens, enforcement rights, approval for the use of cash collateral or of financing in the event of an insolvency, adequate protections and credit bidding.

Exhibit A

Form of Releases

EXEMPTION FROM LIABILITY AND WAIVER OF EXEMPT PARTIES.

(a) Exemption From Liability. Upon approval of the RJ Plan Amendment, and subject to the occurrence of the Restructuring Closing Date, the Parties expressly acknowledge and exempt the Exempt Parties that have acted in compliance with the applicable laws and standards from any and all liability for the acts performed and obligations related to or in connection with the Restructuring Transactions (including preparation of the Definitive Documentation and the negotiation and documentation of the RJ Plan Amendment and, in relation to the Joint Provisional Liquidators, any matter arising from or incidental to the provisional liquidation of the JPL Entities) and executed before the Restructuring Closing Date, granting the Exempt Parties a broad, general, irrevocable and irreversible release and discharge of all rights and material or moral claims arising from said acts for any reason to the extent permitted by applicable law.

The foregoing paragraph shall not apply to:

(i) acts committed in gross negligence, fraud or willful misconduct,

(ii) the enforcement of the RJ Plan Amendment, the RJ Plan Term Sheet, the Plan Support Agreement and the other Definitive Documentation, which remain fully enforceable against all applicable parties, pursuant to their respective terms,

(iii) any material misstatements or omissions with respect to information about any Parties or their affiliates that are relevant to the Restructuring Transactions, the Trust Documents and any documents contemplated and referenced therein, or any other Definitive Documentation, and

(iv) any breach, without limitation, of the RJ Plan Amendment, the RJ Plan Term Sheet, the PSA, the Trust Documents and any documents contemplated and referenced therein, any other Definitive Documentation, any filings made in connection with the Restructuring Proceedings, and any other documents relating to the Restructuring Transactions, including the representations, warranties and covenants in any such documents, regardless of when such breach is discovered

((i) through (iv) collectively, the "**Non-Exempt Acts**").

(b) Waiver of Exempt Parties. Upon approval of the RJ Plan Amendment and subject to the occurrence of the Restructuring Closing Date, the Parties also expressly and irrevocably waive, to the extent permitted by applicable law, any claims, actions or rights to sue or claim, judicially or extrajudicially, in any capacity and without reservations or qualifications, compensation for damages and/or other actions or measures against the Exempt Parties, whether known or unknown, against the Exempt Parties that have acted in compliance with applicable laws, in respect of acts committed and obligations undertaken by the Exempt Parties within the Restructuring Transactions, including any matter arising from or incidental to the provisional liquidation of the JPL Entities (other than for the Non-Exempt Acts).

EXEMPT PARTIES. Exempt Parties means the Company Parties, the Consenting 2024 Noteholders, the Consenting Lenders, Bradesco, the Legacy Shareholders, the New Money Lenders and the Joint Provisional Liquidators, as well as, in each case, their respective affiliates, officers, directors, managers, counsellors, employees, lawyers, advisors, agents and representatives, solely in their respective capacities as such, including their predecessors and successors; *provided that* the Exempt Parties shall not include any partner in a joint venture, former partner of any Company Party, or any other entity outside of the Constellation Group that is a debtor of a Constellation Group entity.

Exhibit B to RJ Plan Term Sheet

New Money Commitment Agreement

COMMITMENT AGREEMENT

AMONG

CONSTELLATION OIL SERVICES HOLDING S.A.,

EACH OF THE OTHER DEBTORS (AS DEFINED BELOW)

AND

THE COMMITMENT PARTIES PARTY HERETO

Dated as of March 24, 2022

SCHEDULES

COMMITMENT AGREEMENT

THIS COMMITMENT AGREEMENT (this "**Agreement**"), dated as of March 24, 2022, is made by and among the following parties, each in the capacity set forth on its signature page to this Agreement (individually, as a "**Party**" and, collectively, the "**Parties**"):

(i) Constellation Oil Services Holding S.A. ("**Constellation Holding**") and each RJ Debtor (as listed on Schedule 1 hereto) (the "**RJ Debtors,**" and together with the Company Parties, the "**Debtors**"); and

(ii) Each of the parties listed on Schedule 3 hereto in the column entitled Commitment Party (each a "**Commitment Party**" and collectively, the "**Commitment Parties**").

RECITALS

WHEREAS, a plan support agreement memorializing the terms and conditions of an agreed restructuring of the RJ Debtors' debt obligations (the "**Original Plan Support Agreement**") was executed by and among the Consenting Lenders (as defined below), Banco Bradesco S.A., Grant Cayman Branch ("**Bradesco**"), the Legacy Shareholders (as defined below), and the RJ Debtors (as defined below) on November 29, 2018;

WHEREAS, the Original Plan Support Agreement was amended and restated to memorialize the terms and conditions of an agreed restructuring of the RJ Debtors' debt obligations as executed by and among the Consenting Lenders, certain of the Consenting 2024 Noteholders, Bradesco, the Legacy Shareholders, and the RJ Debtors on February 21, 2019 ("**2019 A&R PSA**");

WHEREAS, the amended and restated Original Plan Support Agreement was further amended (as amended and restated and further amended, the "**Amended Original Plan Support Agreement**") was executed by and among the Required Consenting Lenders, Bradesco, the Legacy Shareholders, certain of the Consenting 2024 Noteholders, and the RJ Debtors on June 28, 2019, which amended and superseded the Original Plan Support Agreement and the 2019 A&R PSA;

WHEREAS, a plan of reorganization consistent with the terms and conditions agreed in the Amended Original Plan Support Agreement (the "**Plan**") proposed in a *recuperação judicial* proceeding commenced on December 6, 2018 (such filing date, the "**Petition Date**"), with respect to the RJ Debtors (the "**Brazilian RJ Proceeding**") was confirmed by the First Business Court of Rio de Janeiro (the "**Brazilian RJ Court**") on July 1, 2019, enforced by the U.S. Bankruptcy Court by orders entered on December 5, 2019, with respect to the Chapter 15 Debtors (as defined below) with the exception of Arazi S.à.r.l., and on April 3, 2020, with respect to Arazi S.à.r.l.;

WHEREAS, the restructuring transactions provided for pursuant to the Plan and the Amended Original Plan Support Agreement were consummated on December 18, 2019;

WHEREAS, following the implementation of the Plan, the Amended Original Plan Support Agreement terminated in accordance with its terms and has no further force and effect;

WHEREAS, on April 7, 2021, upon request from the RJ Debtors, the Brazilian Court entered an order (the "**Brazilian Order**") extending the supervision period of the Brazilian RJ Proceeding, suspending the obligations under the Plan, and imposing a stay against actions by creditors to enforce such obligations to provide the RJ Debtors time to negotiate and present an amendment to the Plan without disruptions to their business activities, as set forth under the terms of the Brazilian Order;

WHEREAS, on May 17, 2021, May 19, 2021 and June 8, 2021, the Brazilian Court of Appeals (as defined below) granted a suspension of the Plan obligations for ninety (90) days from the date of the Brazilian Order, with an additional sixty (60) days, in the event that the RJ Debtors filed the RJ Plan Amendment (as defined below) by the end of the 90-day stay, allowing the RJ Debtors to hold a General Creditors' Meeting (as defined below) to vote on such proposed amendment;

WHEREAS, on May 25, 2021, the U.S. Bankruptcy Court entered the Chapter 15 Stay (as defined in the PSA);

WHEREAS, on July 6, 2021, the RJ Debtors filed a proposed amendment to the Plan that will be superseded by the RJ Plan Amendment (as defined below);

WHEREAS, on September 13, 2021, the General Creditors' Meeting was installed and then adjourned by vote of the creditors present at such meeting to September 30, 2021, October 22, 2021, December 1, 2021, December 15, 2021, January 31, 2022, March 7, 2022, March 15, 2022, and ultimately to March 24, 2022;

WHEREAS, in connection with their entry into this Agreement, each of the Debtors, the Legacy Shareholders and the Consenting Stakeholders will enter into an agreement to effectuate, among other things, the terms and conditions summarized in the Plan Support and Lock-up Agreement, dated as of the date hereof (the "**PSA**"), including the term sheet attached as an exhibit to the RJ Plan Amendment (the "**RJ Plan Term Sheet**") and the Restructuring Documents (as defined below);

WHEREAS, the Parties hereto have negotiated in good faith and at arm's length certain further restructuring and recapitalization transactions with respect to the Company Parties on the terms and conditions set forth in the PSA, including the amendment to the RJ Plan (as may be later amended, modified, revised, or supplemented in accordance with the PSA, the "**RJ Plan Amendment**") and the RJ Plan Term Sheet; and

WHEREAS, pursuant to the RJ Plan Amendment and this Agreement, each Commitment Party has agreed to purchase only (on a several and not joint basis) its New Money Commitment Percentage (as defined below) of the New Priority Lien Notes (as defined below).

NOW, THEREFORE, in consideration of the mutual promises, agreements, representations, warranties and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, each of the Parties hereby agrees as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Except as otherwise expressly provided in this Agreement, whenever used in this Agreement (including any Exhibits and Schedules hereto), the following terms shall have the respective meanings specified therefor below:

"**2019 A&R PSA**" has the meaning ascribed to it in the recitals to this Agreement.

"**2024 Fourth Lien Notes**" means the 10.00% PIK / Cash Senior Secured Fourth Lien Notes due 2024, issued by Constellation Holding under the 2024 Fourth Lien Notes Indenture (as defined below).

"**2024 Fourth Lien Notes Indenture**" means that certain indenture in respect of the 2024 Fourth Lien Notes, dated as of December 18, 2019 (as amended, restated, supplemented or otherwise modified), by and among Constellation Holding, the guarantors party thereto and Wilmington Trust, National Association, as trustee, paying agent, transfer agent and registrar.

"**2024 Notes"** means, collectively, the 2024 Fourth Lien Notes and the 2024 Participating Notes.

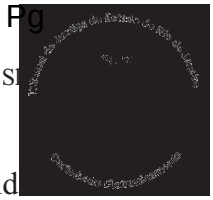
"**2024 Notes Claims**" means Claims against any Company Party with respect to the 2024 Notes.

"**2024 Notes Indentures**" means, collectively, the 2024 Fourth Lien Notes Indenture and the 2024 Participating Notes Indenture (as defined below).

"**2024 Participating Notes**" means both:

(a) Constellation Holding's 10.00% PIK / Cash Senior Secured Notes due 2024, comprised of 10.00% PIK / Cash Senior Secured First Lien Tranche due 2024, 10.00% PIK / Cash Senior Secured Second Lien Tranche due 2024, and 10.00% PIK / Cash Senior Secured Third Lien Tranche due 2024 (in each case, including any Non-RJ-Subject Obligations, as applicable), under that certain indenture in respect thereof, dated December 18, 2019 (as amended, restated, supplemented or otherwise modified), by and among, Constellation Holding, the guarantors party thereto and Wilmington Trust, National Association as trustee, paying agent, transfer agent and registrar; and

(b) Constellation Holding's 10.00% PIK / Cash Senior Secured Third Lien Notes due 2024 under that certain indenture in respect thereof, dated December 18, 2019 (as amended, restated, supplemented or otherwise modified), by and among, Constellation Holding, the guarantors party thereto and Wilmington Trust, National Association as trustee, paying agent, transfer agent and registrar (such indentures, together, the "**2024 Participating Notes Indenture**").



"**Ad Hoc Group**" means that certain ad hoc group of Consenting 2024 Noteholders represented by Milbank LLP; Jefferies LLC; Virtus BR Partners; Thomaz Bastos, Waisberg, Kurzweil Advogados; Appleby; and Bonn Steichen & Partners.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (including any Related Funds of such Person); *provided*, that for purposes of this Agreement, no Commitment Party shall be deemed an Affiliate of the Debtors or any of their Subsidiaries. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"**Agreement**" has the meaning set forth in the preamble to this Agreement.

"**Agreement Effective Period**" has the meaning set forth in the PSA.

"**Alternative Restructuring Plan**" has the meaning set forth in the PSA.

"**Amended Original Plan Support Agreement**" has the meaning ascribed to it in the recitals to this Agreement.

"**Ancillary Proceedings**" has the meaning set forth in the PSA.

"**Applicable Consent**" has the meaning set forth in Section 4.5.

"**Available Securities**" means any securities that any Commitment Party fails to purchase as a result of a Commitment Party Default by such Commitment Party.

"**Bradesco**" has the meaning ascribed to it in the recitals to this Agreement.

"**Brazil**" means the Federative Republic of Brazil.

"**Brazilian Court of Appeals**" means the court in Brazil presiding over appeals of decisions rendered and orders entered by the Brazilian RJ Court.

"**Brazilian Order**" has the meaning set forth in the recitals to this Agreement.

"**Brazilian RJ Court**" has the meaning set forth in the recitals to this Agreement.

"**Brazilian RJ Proceeding**" has the meaning set forth in the recitals to this Agreement.

"**Business Day**" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed, in Rio de Janeiro, New York, British Virgin Islands, Cayman Island, São Paulo, London or Luxembourg.

"**BVI Court**" has the meaning ascribed to it in the PSA.

"**Cayman Court**" has the meaning ascribed to it in the PSA.

"**Chapter 15 Proceedings**" has the meaning ascribed to it in the PSA.

"**Claim**" means (a) a right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured and calculated together with all applicable accrued interest, fees and commission due, owing or incurred from time to time (including, without limitation, by any RJ Debtor or an applicable obligor or security provider under any applicable Finance Document (as defined in the PSA)) or (b) a right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured. For the avoidance of doubt, the definition of claim as defined in this Agreement is no less broad than the definition of claim as defined in section 101(5) of the Bankruptcy Code and includes, without limiting the foregoing, the Company Claims (as defined in the PSA), the Credit Agreement Claims (as defined in the PSA), the 2024 Notes Claims, and the Bradesco Claims (as defined in the PSA).

"**Closing**" has the meaning set forth in Section 2.5(a).

"**Closing Date**" has the meaning set forth in Section 2.5(a).

"**Commitment Party**" or "**Commitment Parties**" has the meaning set forth in the preamble to this Agreement.

"**Commitment Party Advisors**" means Milbank LLP, Jefferies LLC, Virtus BR Partners, Thomaz Bastos Waisberg Kurzweil Advogados, Appleby, and Bonn Steichen & Partners and any other local counsel engaged by the Commitment Parties in the context of the RJ Plan Amendment and agreed to by the Company, in their capacities as legal, financial and strategic advisors, as applicable, to the Commitment Parties.

"**Commitment Party Default**" means (a) any Commitment Party (other than an Direct Funding Commitment Party which has made an election under and in accordance with Section 2.5) fails to deliver and pay such Commitment Party's New Money Commitment Percentage of the New Priority Lien Notes by the Escrow Funding Date in accordance with Section 2.4; (b) any Direct Funding Commitment Party fails to deliver and pay such Commitment Party's New Money Commitment Percentage of the New Priority Lien Notes by the Closing Date in accordance with Section 2.5; or (c) any Commitment Party denies or disaffirms in writing (electronic or otherwise) such Commitment Party's obligations pursuant to Section 2.2 or Section 2.4.

"**Company Parties**" means Constellation Holding and each of its direct and indirect subsidiaries.

"**Company Disclosure Schedules**" means the disclosure schedules delivered by Constellation Holding to the Commitment Parties on the date of this Agreement.

"**Consenting 2024 Noteholders**" has the meaning set forth in the PSA.

"**Consenting Lenders**" has the meaning set forth in the PSA.

"**Consenting Stakeholders**" has the meaning set forth in the PSA.

"**Constellation Holding**" has the meaning ascribed to it in the preamble to this Agreement.

"**Defaulting Commitment Party**" means, in respect of a Commitment Party Default that is continuing, the applicable defaulting Commitment Party.

"**Debtor**" means, collectively, the RJ Debtors and the Company Parties.

"**Direct Funding Commitment Party**" means any Commitment Party that is prohibited or restricted under applicable fund policies (including registered investment companies under the Investment Company Act of 1940) from paying or delivering funds into the escrow account.

"**Equity Interests**" means, collectively, the shares (or any class thereof), common stock, preferred stock, limited liability company interests, and any other equity, ownership, or profit interests in any Company Party, and options, warrants, rights, or other securities or agreements to acquire or subscribe for, or which are convertible into the shares (or any class thereof) of, common stock, preferred stock, limited liability company interests, or other equity, ownership, or profit interests in any Company Party (in each case, whether or not arising under or in connection with any employment agreement).

"**Escrow Funding Date**" has the meaning set forth in Section 2.4(b).

"**Funding Notice**" has the meaning set forth in Section 2.4(a).

"**General Creditors' Meeting**" has the meaning set forth in the PSA.

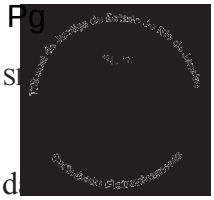
"**Governmental Entity**" means any U.S. or non-U.S. international, regional, federal, state, municipal or local governmental, judicial, administrative, legislative or regulatory authority, entity, instrumentality, agency, department, commission, court or tribunal of competent jurisdiction (including any branch, department or official thereof).

"**Guarantors**" means each of the guarantors of the New Priority Lien Notes.

"**Indemnified Claim**" has the meaning set forth in Section 8.2.

"**Indemnified Person**" has the meaning set forth in Section 8.1.

"**Indemnifying Party**" has the meaning set forth in Section 8.1.



"Investor Site" means that certain secure "QGOG Constellation Share Point" da room provided by Constellation Holding to the Commitment Parties (or their advisors on their behalf).

"**Joint Provisional Liquidators**" has the meaning set forth in the PSA.

"**JPL Entities**" has the meaning set forth in the PSA.

"**Knowledge**" means the actual knowledge, after reasonable inquiry of their direct reports, of the chief executive officer, chief financial officer, chief operating officer and general counsel of such Person. As used herein, "actual knowledge" means information that is personally known by the listed individual(s).

"**Law**" means any law (statutory or common), statute, regulation, rule, code or ordinance enacted, adopted, issued or promulgated by any Governmental Entity.

"**Legacy Shareholders**" has the meaning set forth in the PSA.

"**Legal Proceedings**" has the meaning set forth in Section 4.6.

"**Lien**" means any lien, adverse claim, charge, option, right of first refusal, servitude, security interest, mortgage, pledge, deed of trust, easement, encumbrance, restriction on transfer, conditional sale or other title retention agreement, defect in title, lien or judicial lien or other restrictions of a similar kind.

"**Losses**" has the meaning set forth in Section 8.1.

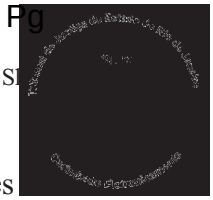
"**Money Laundering Laws**" has the meaning set forth in Section 4.10.

"**New 2026 First Lien Notes**" means Constellation Holding's new 3.00% / 4.00% PIK Toggle Senior Secured Notes due 2026.

"**New 2050 Second Lien Notes**" means Constellation Holding's new 0.25% PIK Senior Second Lien Notes due 2050.

"**New Money Indenture**" shall mean the indenture among Constellation Holding, as issuer, the Guarantors, and the trustee party thereto (the "**Trustee**") governing the New Priority Lien Notes, dated as of the Closing Date, which indenture shall be in form and substance reasonably acceptable to Constellation Holding and the Commitment Parties.

"**New Money Commitment Percentage**" means, with respect to any Commitment Party, such Commitment Party's percentage of the New Priority Lien Notes as set forth opposite such Commitment Party's name under the column titled "New Money Commitment Percentage" on Schedule 2 (as it may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement). Any reference to "New Money Commitment Percentage" in this Agreement means the New Money Commitment Percentage in effect at the time of the relevant determination.



"**New Money Offering**" means the offering for New Priority Lien Notes accordance with the New Money Indenture, PSA, the RJ Plan Term Sheet and this Agreement.

"**New Notes**" means the New Priority Lien Notes, the New 2050 Second Lien Notes, the New 2026 First Lien Notes, and the New Unsecured Notes.

"**New Priority Lien Notes**" means Constellation Holding's new $62,400,000 13.5% Senior Secured Notes due 2024, purchased by and issued to the Commitment Parties, or their designees, pursuant to this Agreement and the New Money Indenture.

"**New Unsecured Notes**" has the meaning set forth in the RJ Plan Term Sheet.

"**Non-RJ-Subject Obligations**" has the meaning set forth in the PSA.

"**Order**" means any judgment, order, award, injunction, writ, permit, license or decree of any Governmental Entity or arbitrator of applicable jurisdiction.

"**Original Plan Support Agreement**" has the meaning set forth in the recitals to this Agreement.

"**Outstanding Advisor Invoices**" has the meaning set forth in the PSA.

"**Party**" has the meaning set forth in the preamble to this Agreement.

"**Permitted Liens**" means (a) Liens for Taxes that (i) are not due and payable or (ii) are being contested in good faith by appropriate proceedings and for which adequate reserves have been made with respect thereto; (b) mechanics Liens and similar Liens for labor, materials or supplies or other like Liens arising by operation of law or incident to the exploration, development, operation and maintenance of oil and gas properties, in each case, as provided with respect to any Real Property or personal property incurred in the ordinary course of business consistent with past practice, for amounts that are not more than sixty (60) days delinquent and that do not materially detract from the value of, or materially impair the use of, any of the Real Property or personal property of the Debtors or any of their Subsidiaries; (c) zoning, building codes and other land use Laws regulating the use or occupancy of any Real Property or the activities conducted thereon that are imposed by any Governmental Entity having jurisdiction over such Real Property; *provided*, that no such zoning, building codes and other land use Laws prohibit the use or occupancy of such Real Property; (d) easements, covenants, conditions, restrictions and other similar matters adversely affecting title to any Real Property and other title defects that do not or would not materially impair the use or occupancy of such Real Property or the operation of the Debtors' or any of their Subsidiaries' business; (e) Liens permitted by the 2024 Notes Indenture; and (f) Liens that, pursuant to the RJ Plan Amendment Order, will not survive beyond the Closing Date.

"**Person**" means an individual, firm, corporation (including any non-profit corporation), partnership, limited liability company, joint venture, associate, trust, Governmental Entity or other entity or organization.

"**Petition Date**" has the meaning set forth in the recitals to this Agreement.

"**Plan**" has the meaning set forth in the recitals to this Agreement.

"**Post-Effective Debt**" means the amended and restated Restructured ALB Credit Agreement and the New Notes.

"**Post-Effective Debt Documentation**" means the contracts, indentures, credit agreements, mortgages, notes or other instruments, as applicable, governing the Post-Effective Debt.

"**Prohibited Person**" means any person or entity (a) (i) convicted of (or who pleaded *nolo contendere* or the equivalent to such *plea*) a felony or other crime or (ii) who is, or has been, the subject of any order, judgement, *writ*, decree or other determination, decision or ruling of any governmental entity or body, court, judge, justice or magistrate or similar authority involving self-dealing, fraud, embezzlement or acts of moral turpitude; or (b) (i) identified on any list maintained by a sanctions authority (including, without limitation, the United Nations Security Council, United States governmental entities, European Union governmental entities and United Kingdom governmental entities) of parties with whom or with which transactions are prohibited or restricted, (ii) established, located or resident in or organized under the laws of a sanctioned country (including, without limitation, any country, territory or authority identified on a list maintained by a sanctions authority), or (iii) that is the subject or target of any sanctions laws (including, without limitation, any applicable national or international economic or trade sanctions, embargoes or other measures imposed by a sanctions authority).

"**PSA**" has the meaning set forth in the recitals to this Agreement.

"Purchase Amount" has the meaning set forth in Section 2.4(a)(i).

"**Purchase Commitment**" has the meaning set forth in Section 2.2.

"**Purchase Escrow Account**" has the meaning set forth in Section 2.4(a)(ii).

"**Purchase Price**" means U.S.$961.538 per each 1,000 New Priority Lien Notes.

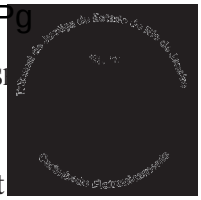
"**Real Property**" means, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee simple or leased by the Debtors or any of their Subsidiaries, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures incidental to the ownership or lease thereof.

"**Recognition Orders**" has the meaning set forth in the PSA.

"**Regulation D**" has the meaning set forth in Section 5.4.

"**Regulation S**" has the meaning set forth in Section 2.10.

"**Related Fund**" means (a) any investment funds or other entities who are advised by the same investment advisor and (b) any investment advisor with respect to an investment fund or entity it advises.



"**Related Parties**" mean, with respect to any Person, (a) any former, current or future director, officer, agent, Representative, Affiliate, employee, general or limited partner, member, manager or stockholder of such Person and (b) any former, current or future director, officer, agent, Representative, Affiliate, employee, general or limited partner, member, manager or stockholder of any of the foregoing, in each case solely in their respective capacity as such.

"**Related Purchaser"** means, with respect to any Commitment Party, a creditworthy Affiliate or Related Fund of such Commitment Party.

"**Reorganized Company Parties**" has the meaning set forth in the PSA.

"**Replacement Commitment Parties**" has the meaning set forth in Section 2.3(a).

"**Representatives**" means, with respect to any Person, such Person's directors, officers, members, partners, managers, employees, agents, investment bankers, attorneys, accountants, advisors and other representatives.

"**Required Consenting Lenders**" has the meaning set forth in the PSA.

"**Requisite Commitment Parties**" means each member of the Ad Hoc Group, as investment manager for and on behalf of certain funds it manages.

"Restructured ALB Credit Agreement" has the meaning set forth in the PSA.

"**Restructuring Closing Date**" has the meaning set forth in the PSA.

"Restructuring Documents" has the meaning set forth in the PSA.

"**Restructuring Proceedings**" has the meaning set forth in the PSA.

"**Restructuring Transactions**" has the meaning set forth in the PSA.

"**RJ Debtors**" has the meaning set forth in the preamble to this Agreement.

"**RJ Plan Amendment**" has the meaning set forth in the recitals to this Agreement.

"**RJ Plan Amendment Order**" has the meaning set forth in the PSA.

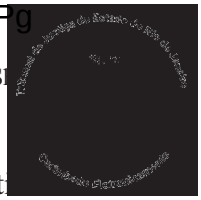
"**RJ Plan Term Sheet**" has the meaning set forth in the recitals to this Agreement.

"**Sanctioned Jurisdiction**" has the meaning set forth in Section 4.11.

"**Sanctions**" has the meaning set forth in Section 4.11.

"**Section 4(a)(2)**" has the meaning set forth in Section 2.10.

"**Securities Act**" means the Securities Act of 1933 (15 U.S.C. § 77a *et seq*.), as amended.



"**Significant Terms**" means, collectively, (a) the definitions of "Alternati Restructuring Plan", "Purchase Price", "Requisite Commitment Parties", and "Significant Terms" and (b) the terms of Section 2.2, Section 2.3, and Section 3.1.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture or other legal entity as to which such Person (either alone or through or together with any other subsidiary or Affiliate), (a) owns, directly or indirectly, more than fifty percent (50%) of the stock or other Equity Interests, (b) has the power to elect a majority of the board of directors or similar governing body thereof or (c) has the power to direct, or otherwise control, the business and policies thereof.

"**Taxes**" means all taxes, assessments, duties, levies or other similar mandatory governmental charges paid to a Governmental Entity, including all federal, state, local, foreign and other income, franchise, profits, gross receipts, capital gains, capital stock, transfer, property, sales, use, value-added, occupation, excise, severance, windfall profits, stamp, payroll, social security, withholding and other taxes, assessments, duties, levies or other similar mandatory governmental charges of any kind whatsoever paid to a Governmental Entity (whether payable directly or by withholding and whether or not requiring the filing of a return), all estimated taxes, deficiency assessments, additions to tax, penalties and interest thereon and shall include any liability for such amounts as a result of being a member of a combined, consolidated, unitary or affiliated group.

"**Transaction Agreements**" means this Agreement, the RJ Plan Amendment, the Post-Effective Debt Documentation and such other agreements and any supplements to the RJ Plan Amendment or documents referred to herein or therein.

"**Transfer**" means to sell, resell, reallocate, use, pledge, assign, transfer, hypothecate, participate, donate or otherwise encumber or dispose of, directly or indirectly (including through derivatives, options, swaps, pledges, forward sales or other transactions).

"Trust Documents" has the meaning set forth in the PSA.

"**U.S.**" means the United States of America.

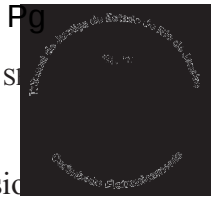
"**U.S. Bankruptcy Code**" means Title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

"**U.S. Bankruptcy Court**" means the U.S. Bankruptcy Court for the Southern District of New York.

"**U.S. Enforcement Order**" has the meaning ascribed to it in the PSA.

Section 1.2 Construction. In this Agreement, unless the context otherwise requires:

(a) references to Articles, Sections, Clauses, Exhibits and Schedules are references to the articles and sections, subsections or clauses of, and the exhibits and schedules attached to, this Agreement;



(b) references in this Agreement to "writing" or comparable expressio include a reference to a written document transmitted by means of electronic mail in portable document format (pdf), facsimile transmission or comparable means of communication;

(c) words expressed in the singular number shall include the plural and vice versa; words expressed in the masculine shall include the feminine and neuter gender and vice versa;

(d) the words "hereof," "herein," "hereto" and "hereunder," and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole, including all Exhibits and Schedules attached to this Agreement, and not to any provision of this Agreement;

(e) the term this "Agreement" shall be construed as a reference to this Agreement as the same may have been, or may from time to time be, amended, modified, varied, novated or supplemented;

(f) "include," "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words;

(g) references to "day" or "days" are to calendar days;

(h) references to "the date hereof" means the date of this Agreement;

(i) unless otherwise specified, references to a statute means such statute as amended from time to time and includes any successor legislation thereto and any rules or regulations promulgated thereunder in effect from time to time; and

(j) references to "dollars" or "$" are to United States of America dollars.

ARTICLE II

COMMITMENTS

Section 2.1 [Reserved]

Section 2.2 The Purchase Commitment. Upon and subject to the approval of the RJ Plan Amendment at the General Creditors' Meeting and obtaining all necessary enforcement orders in the Ancillary Proceedings and any other applicable terms and conditions hereof, including entry of the RJ Plan Amendment Order and U.S. Enforcement Order (which RJ Plan Amendment Order and U.S. Enforcement Order shall not have been modified, amended, reversed or vacated) each Commitment Party agrees, severally and not jointly, to purchase, and Constellation Holding agrees to sell to each such Commitment Party, on the Closing Date for the Purchase Price the principal amount of New Priority Lien Notes equal to (a) such Commitment Party's New Money Commitment Percentage multiplied by (b) $62,400,000. The obligations of the Commitment Parties to purchase such New Priority Lien Notes as described in this Section 2.2 shall be referred to as the "**Purchase Commitment**."

Section 2.3 Commitment Party Default. (a) During the three (3) Business Day period after receipt of written notice from Constellation Holding to all Commitment Parties of a Commitment Party Default, which notice shall be given promptly to all Commitment Parties substantially concurrently following the occurrence of such Commitment Party Default, each Commitment Party (other than any Defaulting Commitment Party), shall have the right, but not the obligation, to make arrangements to purchase all or any portion of the resulting Available Securities on the terms and subject to the conditions set forth in this Agreement and in such amounts as may be agreed upon by all of the non-defaulting Commitment Parties electing to purchase all or any portion of the Available Securities (in the case of such Commitment Parties, the "**Replacement Commitment Parties**"). Any such Available Securities purchased by a Replacement Commitment Party shall be included as applicable, among other things, in the determination of the Purchase Commitment of such Replacement Commitment Party for all purposes hereunder.

(b) Nothing in this Agreement shall be deemed to require any Commitment Parties to purchase, on a several and not joint basis, more than its New Money Commitment Percentage of the New Priority Lien Notes.

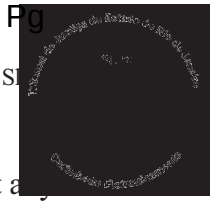
(c) For the avoidance of doubt, notwithstanding anything to the contrary set forth in Section 9.5, but subject to Section 10.7, no provision of this Agreement shall relieve any Defaulting Commitment Party from any liability hereunder, in connection with a Commitment Party Default, under this Article II or otherwise.

Section 2.4 Escrow Account Funding. (a) No later than the eighth (8^{th}) Business Day prior to the Closing Date, Constellation Holding shall deliver to each non-Defaulting Commitment Party a written notice substantially in a form and substance reasonably acceptable to the Company and the Commitment Parties (the "**Funding Notice**") of:

(i) the principal amount of New Priority Lien Notes required to be purchased hereunder by the Commitment Party (as it relates to each Commitment Party, such Commitment Party's "**Purchase Amount**") and the aggregate Purchase Price therefor; and

(ii) the account information (including wiring instructions) for the escrow account to which such Commitment Party shall deliver and pay the Purchase Amount (the "**Purchase Escrow Account**").

(b) No later than three (3) Business Days prior to the Closing Date (such date, the "**Escrow Funding Date**"), each Commitment Party shall deliver and pay its Purchase Amount by wire transfer in immediately available funds in U.S. dollars into the Purchase Escrow Account in satisfaction of such Commitment Party's Purchase Commitment. The Purchase Escrow Account shall be established with an U.S. based escrow agent reasonably satisfactory to the Requisite Commitment Parties and Constellation Holding pursuant to an escrow agreement in form and substance satisfactory to the Requisite Commitment Parties and Constellation Holding. If this Agreement is terminated in accordance with its terms, the funds held in the Purchase Escrow Account shall be released back to the Commitment Parties in accordance with the amounts funded thereto, and each Commitment Party shall receive from the Purchase Escrow Account the cash



amount actually funded to the Purchase Escrow Account by such Commitment Party, without any interest, promptly following such termination.

Section 2.5 Direct Funding Commitment Party. Notwithstanding anything to the contrary in this Section 2 and herein, the requirement that payment of the Commitment Party's Purchase Commitment be made by the Escrow Funding Date does not apply in respect of a Direct Funding Commitment Party, *provided* that such Direct Funding Commitment Party elects to pay its cash portion of its Purchase Commitment by wire transfer in immediately available funds in U.S. dollars to Constellation Holding or the Company Parties (as applicable) on the Closing Date, by giving Notice of the same to Constellation Holding at least ten (10) Business Days prior to the Escrow Funding Date.

Section 2.6 Closing. (a) Subject to Article VII, unless otherwise mutually agreed in writing between Constellation Holding and the Requisite Commitment Parties, the closing of the Purchase Commitments (the "**Closing**") shall take place at the offices of White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020, at 10:00 a.m., New York City time, within three (3) Business Days of the date on which all of the conditions set forth in Article VII shall have been satisfied or waived in accordance with this Agreement (other than conditions that by their terms are to be satisfied at the Closing, but subject to the satisfaction or waiver of such conditions). The date on which the Closing actually occurs shall be referred to herein as the "**Closing Date**."

(b) At the Closing, the funds held in the Purchase Escrow Account shall be released to Constellation Holding and utilized as set forth in, and in accordance with, the RJ Plan Amendment, subject to Section 7(j).

(c) At the Closing, Constellation Holding will issue the New Priority Lien Notes (including for any commitment fee with respect thereto) to each Commitment Party (or to its designee in accordance with Section 2.8) against payment of such Commitment Party's Purchase Amount, in satisfaction of such Commitment Party's Purchase Commitment. The New Priority Lien Notes will be delivered pursuant to this Section 2.5(c) to the Commitment Party, or to the extent eligible, into the account of the applicable Commitment Party through the facilities of The Depository Trust Company.

Section 2.7 No Transfer of Purchase Commitments.

(a) Other than as expressly set forth in Section 2.6(b), no Commitment Party (or any permitted transferee thereof) may Transfer all or any portion of its Purchase Commitment to any other entity, including the Debtors, any of the Debtors' Affiliates or the Legacy Shareholders.

(b) Each Commitment Party may Transfer all or any portion of its Purchase Commitment (including any and all obligations under this Agreement with respect thereto) to any other Commitment Party or any of its or their respective Related Purchaser. For the avoidance of doubt, in the event of such Transfer, the Commitment Party's respective Purchase Commitment and any and all obligations under this Agreement shall be terminated to the extent of such Transfer.

(c) Any Transfer of Purchase Commitments made (or attempted to be made) in violation of this Agreement shall be deemed null and void *ab initio* and of no force or effect, regardless of any prior notice provided to the Parties or any Commitment Party, and shall not create (or be deemed to create) any obligation or liability of any other Commitment Party or any Debtor to the purported transferee or limit, alter or impair any agreements, covenants, or obligations of the proposed transferor under this Agreement. After the Closing Date, nothing in this Agreement shall limit or restrict in any way the ability of any Commitment Party (or any permitted transferee thereof) to Transfer any of the New Priority Lien Notes or any interest therein to any party.

Section 2.8 Designation Rights. Each Commitment Party shall have the right to designate by written notice to Constellation Holding no later than five (5) Business Days prior to the Closing Date that some or all of the New Priority Lien Notes that it is obligated to purchase hereunder be issued in the name of, and delivered to, a Related Purchaser of such Commitment Party upon receipt by Constellation Holding of payment therefor in accordance with the terms hereof, which notice of designation shall (a) be addressed to Constellation Holding and signed by such Commitment Party and each such Related Purchaser, (b) specify the principal amount of New Priority Lien Notes to be delivered to or issued in the name of such Related Purchaser and (c) contain a confirmation by each such Related Purchaser of the accuracy of the representations set forth in Sections 5.4 through 5.6 as applied to such Related Purchaser; *provided*, that no such designation pursuant to this Section 2.7 shall relieve such Commitment Party from its obligations under this Agreement.

Section 2.9 Consent to Transfers of New Money Commitment by Commitment Parties. Constellation Holding hereby consents to any Transfer of the New Money Commitment held by any Commitment Party to any such Commitment Party's Related Purchaser, which, for the avoidance of doubt, shall not require an accompanying Transfer of such Commitment Party's interest in the corresponding 2024 Notes Claims nor relieve any Commitment Party of its obligations under this Agreement.

Section 2.10 [Reserved]

Section 2.11 New Money Offering. The New Money Offering shall be conducted in reliance upon the exemptions from registration under the Securities Act provided in Section 4(a)(2) of the Securities Act ("**Section 4(a)(2)**") or Regulation S under the Securities Act ("**Regulation S**"), in accordance with this Agreement, the PSA and the RJ Plan Term Sheet, or another available exemption from registration under the Securities Act.

ARTICLE III

OUTSTANDING ADVISOR INVOICES

Section 3.1 Outstanding Advisor Invoices. The Outstanding Advisor Invoices shall be paid by Constellation Holding in accordance with the terms set forth in the PSA, including the RJ Plan Term Sheet.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE DEBTORS

Except as set forth in the corresponding section of the Company Disclosure Schedules (unless otherwise set forth herein, as of the date of this Agreement and as of the Closing Date), each of the Debtors, jointly and severally, hereby represents and warrants to the Commitment Parties as set forth below.

Section 4.1 Organization; Qualification and Enforceability. Each Debtor and each of its Subsidiaries is validly existing and in good standing under the Laws of the state of its organization, and this Agreement is, and, subject to entry of the RJ Plan Amendment Order, each other Transaction Agreement will be, a legal, valid, and binding obligation of such Party, enforceable against it in accordance with its terms, subject to bankruptcy, insolvency, reorganization, moratorium and other similar Laws now or hereafter in effect relating to creditor's rights generally and subject to general principles of equity.

Section 4.2 Corporate Power and Authority. Each Debtor has (or will have, at the relevant time) all requisite corporate or other power and authority to enter into, execute, and deliver this Agreement and each of the Transaction Agreements, transact the business in which it is currently engaged and presently proposes to engage, and perform its respective obligations under this Agreement, the RJ Plan Amendment Order, the RJ Plan Amendment (in accordance with the RJ Plan Amendment Order) and each of the Transaction Agreements.

Section 4.3 Issuance.

(a) Subject to approval of the RJ Plan Amendment at the General Creditors' Meeting, entry of the RJ Plan Amendment Order, and entry of the U.S. Enforcement Order and any other approval or Order in any Ancillary Proceeding necessary to effect the Restructuring Transactions, each of the New Money Indenture and the New Priority Lien Notes to be issued in connection with the consummation of the New Money Offering and pursuant to the terms hereof are duly and validly authorized by Constellation Holding and will, when issued and delivered on the Closing Date in exchange for the aggregate Purchase Price therefor, have been duly executed, issued and delivered by Constellation Holding, and the New Money Indenture and the New Priority Lien Notes, when authenticated by the Trustee, will constitute valid and legally binding obligations of Constellation Holding and the Guarantors, enforceable against it in accordance with their terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability now or hereafter in effect relating to or affecting creditors' rights and to general equity principles and the discretion of any court before which any proceeding therefore may be brought and entitled to the benefits provided by the New Money Indenture. The Debtors acknowledge, declare and agree that any and all amounts due under the New Money Indenture and the New Priority Lien Notes to be issued in connection with the consummation of the New Money Offering will not, in any event, be subject to the judicial reorganization (*recuperação judicial*) of the RJ Debtors and the other entities of its corporate group (proceeding No. 0288463-96.2018.8.19.0001, pending before the Brazilian RJ Court) nor subject to any of the effects thereof, and will be considered, pursuant to Brazilian Law No. 11,101, of February 9, 2005, especially pursuant to its Section 69-A, as post-petition claims (*créditos extraconcursais*) for the

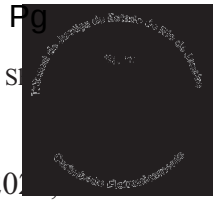
purposes of such judicial reorganization, being immediately payable to the Commitment Party accordance with the terms of the New Money Indenture and the New Priority Lien Notes.

(b) The distribution of the New Priority Lien Notes will have been duly and validly authorized and will be duly and validly issued and delivered, free and clear of all withholding Taxes, Liens, pre-emptive rights, rights of first refusal, subscription and similar rights.

Section 4.4 No Conflict. The execution and delivery of this Agreement, the PSA, the RJ Plan Amendment and the other Restructuring Documents, the compliance with all of the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein: (a) has been duly authorized; (b) will not (i) conflict with or result in a violation or breach of, (ii) constitute (with or without notice or lapse of time or both) a default under, (iii) require any Debtor and its Subsidiaries to obtain any consent, approval or action of, make any filing with or give any notice to any person as a result or under the terms of, (iv) result in or give to any person any right of termination, cancellation, acceleration or modification in or with respect to, (v) result in or give to any person any additional rights or entitlement to increased, additional, accelerated or guaranteed payments under, or (vi) result in the creation or imposition of any lien upon any Debtor and its Subsidiaries or any of their respective assets and properties, under any material contract or license to which any Debtor and its Subsidiaries is a party or by which any of their respective assets and properties is bound, in each case other than as has been waived by the applicable party or rendered ineffective by Law, or has not been enforced or implemented by the applicable party against any Debtor and its Subsidiaries; (c) will not result in any violation of the provisions of the organizational documents of any Debtor and its Subsidiaries; and (d) will not result, individually or in the aggregate, in any material violation of any Law or Order applicable to any Debtor and its Subsidiaries or any of its properties.

Section 4.5 Consents and Approvals. No consent, approval, authorization, Order, registration or qualification of or with any Governmental Entity having jurisdiction over the Debtors or any of their Subsidiaries or any of their respective properties (each, an "**Applicable Consent**") is required for the execution and/or delivery by the Debtors and, to the extent relevant, their Subsidiaries, of this Agreement, the PSA, the RJ Plan Amendment and the other Transaction Agreements, the compliance by the Debtors and, to the extent relevant, their Subsidiaries with the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein, except for (a) the entry of the RJ Plan Amendment Order authorizing Constellation Holding and the Debtors to perform each of their respective obligations under the RJ Plan Amendment, (b) entry by the Brazilian Bankruptcy Court, the court in any Ancillary Proceeding or any other court of competent jurisdiction of Orders as may be necessary from time to time, (c) such consents, approvals, authorizations, registrations or qualifications as may be required under U.S. federal or state securities or "Blue Sky" Laws in connection with the issuance of the New Priority Lien Notes by Constellation Holding and the purchase of the New Priority Lien Notes by the Commitment Parties, (d) any Applicable Consents that, if not made or obtained, would not reasonably be expected to have a material adverse effect and (e) the notices, filings and consents customarily obtained post-closing.

Section 4.6 Legal Proceedings. Other than (a) the Restructuring Proceedings and any adversary proceedings or contested motions commenced in connection therewith, (b) as disclosed in the Investor Site, and (c) any Legal Proceedings (as defined below) set forth in



Constellation Holding's audited financial statements for the fiscal year ended December 31, 201[illegible] there are no material legal, governmental, administrative, judicial, extrajudicial or regulatory investigations, audits, assessments, actions, suits, Claims, arbitrations, demands, demand letters, notices of noncompliance or violations, or proceedings (collectively, "**Legal Proceedings**") pending or, to the Knowledge of Constellation Holding, threatened to which any of the Subsidiaries is a party or of which any property of Constellation Holding or any of its Subsidiaries is the subject, in each case that in any manner draws into question the validity or enforceability of this Agreement, the RJ Plan Amendment or the other Transaction Agreements or that would reasonably be expected to have, individually or in the aggregate, a material adverse effect, in each case in any jurisdiction worldwide or before any arbitral body.

Section 4.7 Title to Real and Personal Property and Assets; Quality of Assets and Properties.

(a) Subject in all respects to the Restructuring Proceedings, each of the Debtors and their Subsidiaries has (i) good and valid fee simple title to all owned Real Property and any other assets, and (ii) good, valid and marketable title, or in the case of legal assets, or valid leasehold interests in, or easements or other limited property interests in all easements, rights of way, and other Real Property interests relating to the Debtors and their Subsidiaries' operations, in each case, except for Permitted Liens and except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their respective intended purposes and except where the failure (or failures) to have such valid title would not reasonably be expected to have, individually or in the aggregate, a material adverse effect. No asset is subject to any agreement, written or oral, for its sale or use by any Person other than Constellation Holding, other than as expressly contemplated under any Leases, charters or bids for charters; and

(b) Each of the Debtors and their Subsidiaries is in material compliance with all obligations under all charters, Leases and other material contracts to which it is a party, and all such agreements are in full force and effect.

Section 4.8 Licenses and Permits. The Debtors and their Subsidiaries possess all licenses, certificates, permits and other authorizations issued by, and have made since December 31, 2018 all requisite declarations and filings with, the appropriate Governmental Entities, in each case, that are necessary for the ownership or lease of their respective properties and the conduct of the business of the Debtors and their Subsidiaries. Since December 31, 2018, none of the Debtors or any of their Subsidiaries (a) has received notice of any revocation or modification of any such license, certificate, permit or authorization from the applicable Governmental Entity with authority with respect thereto or (b) has a basis to believe that any such license, certificate, permit or authorization will not be renewed in the ordinary course, except to the extent that any of the foregoing would not reasonably be expected to have, individually or in the aggregate, a material adverse effect.

Section 4.9 No Unlawful Payments. Since January 1, 2019, none of (a) the Debtors or any of their respective Subsidiaries or (b) any of the directors, officers or, to the Knowledge of each of the Debtors, employees, Affiliates or agents of any Debtor or any of their respective Subsidiaries or (c) any other Persons, while acting on behalf of the Debtors or any of

their respective Subsidiaries, as applicable, has: (i) used any funds of the Debtors or any of th Subsidiaries for any unlawful contribution, gift, entertainment or other unlawful expense, in each case relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds of the Debtors or any of their Subsidiaries; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977, as amended, or any other applicable Law concerning or relating to bribery or corruption (collectively, "**Anti-Corruption Laws**"); or (iv) made any bribe, rebate, payoff, influence payment, kickback or other similar unlawful payment. The Debtors have implemented and maintain policies and procedures designed to promote and achieve compliance with all applicable Anti-Corruption Laws.

Section 4.10 Compliance with Money Laundering Laws. The operations of the Debtors and their respective Subsidiaries are and, since January 1, 2019, have been at all times, conducted in compliance in all material respects with applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1970, the money laundering statutes of each of the jurisdictions in which any of the Debtors or any of their respective Subsidiaries operates (and the rules and regulations promulgated thereunder) and any related or similar applicable Laws concerning or relating to money laundering or terrorism financing (collectively, the "**Money Laundering Laws**") and no Legal Proceeding by or before any Governmental Entity or any arbitrator involving the Debtors or any of their respective Subsidiaries with respect to Money Laundering Laws is pending or, to the Knowledge of the Debtors or any of their respective Subsidiaries, threatened.

Section 4.11 Compliance with Sanctions Laws. None of (a) the Debtors or any of their respective Subsidiaries, or (b) any of the directors, officers or, to the Knowledge of the Debtors, employees, Affiliates or agents of any Debtor or any of their Subsidiaries, or (c) any other Persons, while acting on behalf of the Debtors or any of their respective Subsidiaries: (i) is currently the subject or target of any economic or financial sanctions imposed, administered or enforced by the United States (including the U.S. Department of State and the Office of Foreign Assets Control of the U.S. Department of the Treasury), the European Union or any of its member states, the United Nations Security Council or the United Kingdom (including the Office of Financial Sanctions Implementation of Her Majesty's Treasury) (collectively, "**Sanctions**"), including by being domiciled, organized or resident in any country or territory that is, or whose government is, the subject or target of country-wide or territory-wide U.S. Sanctions broadly prohibiting or restricting dealings in, with or involving such country or territory (a "**Sanctioned Jurisdiction**") or by being owned or controlled by, or acting for or on behalf of, a Person that is the subject or target of Sanctions or that is domiciled, organized or resident in a Sanctioned Jurisdiction; or (ii) has violated or is in violation of any applicable Sanctions. Neither Constellation Holding nor any of the other Debtors will directly or indirectly use any part of the proceeds of the New Money Offering, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, (x) to finance the activities of, or any business of or with, any Person that is currently the subject or target of any Sanctions; (y) to fund or finance any activities or business of, with or in any Sanctioned Jurisdiction, in violation of applicable Sanctions or other applicable Law; or (z) in any manner that would constitute or give rise to a violation of Sanctions by any party hereto (including the Commitment Parties). The Debtors have implemented and maintain policies and procedures designed to promote and achieve compliance with all applicable Sanctions.

Section 4.12 Investment Company Act. Neither the Debtors nor any of th Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

Section 4.13 Insurance. Except as would not reasonably be expected to have, individually or in the aggregate, a material adverse effect, each of the Debtors and their Subsidiaries have insured their properties and assets against such risks and in such amounts as are customary for companies engaged in similar businesses. All premiums due and payable in respect of material insurance policies maintained by any of the Debtors and their Subsidiaries have been paid, to the extent permitted under applicable Law. Each of the Debtors reasonably believes that the insurance maintained by or on behalf of such Debtor and its Subsidiaries is adequate in all material respects. As of the date hereof, none of the Debtors or any of their Subsidiaries has received notice from any insurer or agent of such insurer with respect to any material insurance policies of any of the Debtors or their Subsidiaries of cancellation or termination of any such policies, other than such notices that are received in the ordinary course of business or for policies that have expired in accordance with their terms (other than with respect to such policies that are material and have not been renewed or replaced with comparable policies).

Section 4.14 Alternative Restructuring Plan. As of the date hereof, neither the Debtors nor any of their Subsidiaries is pursuing, or is in discussions regarding, any solicitation, offer or proposal from any Person concerning any actual or proposed Alternative Restructuring Plan.

Section 4.15 No Undisclosed Material Liabilities. There are no liabilities or obligations of the Debtors or any of their Subsidiaries of any kind whatsoever, whether accrued, contingent, absolute, determined or determinable, and there is no existing condition, situation or set of circumstances that would reasonably be expected to result in such a liability or obligation other than: (a) liabilities or obligations disclosed and provided for in Constellation Holding's audited financial statements for the fiscal year ended December 31, 2020; (b) liabilities or obligations incurred in the ordinary course of business consistent with past practices; and (c) liabilities or obligations that would not reasonably be expected to have, individually or in the aggregate, a material adverse effect.

Section 4.16 Prohibited Person. Each of the Debtors is not and none of its officers or directors are Prohibited Persons.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF THE COMMITMENT PARTIES

Each Commitment Party represents and warrants as to itself only (unless otherwise set forth herein, as of the date of this Agreement and as of the Closing Date) as set forth below.

Section 5.1 Incorporation. Such Commitment Party is a legal entity duly organized, validly existing and, if applicable, in good standing (or the equivalent thereof) under the Laws of its jurisdiction of incorporation or organization.

Section 5.2 Corporate Power and Authority. Such Commitment Party has the requisite power and authority (corporate or otherwise) to enter into, execute and deliver this Agreement and each other Transaction Agreement to which such Commitment Party is a party and to perform its obligations hereunder and thereunder and has taken all necessary action (corporate or otherwise) required for the due authorization, execution, delivery and performance by it of this Agreement and the other Transaction Agreements.

Section 5.3 Execution and Delivery. This Agreement and each other Transaction Agreement to which such Commitment Party is a party (a) has been, or prior to its execution and delivery will be, duly and validly executed and delivered by such Commitment Party and, (b) upon entry of the RJ Plan Amendment Order and the U.S. Enforcement Order (and assuming due and valid execution and delivery of this Agreement by Constellation Holding and the other Debtors (as applicable), will constitute valid and legally binding obligations of such Commitment Party, enforceable against such Commitment Party in accordance with their respective terms, except as enforceability may be limited by bankruptcy, insolvency, reorganization or other similar Laws limiting creditors' rights generally or by equitable principles relating to enforceability.

Section 5.4 No Registration. Such Commitment Party understands that the New Priority Lien Notes (a) have not been registered under the Securities Act by reason of one or more specific exemptions from the registration provisions of the Securities Act, the availability of which depends on, among other things, the bona fide nature of the investment intent and the accuracy of such Commitment Party's representations as expressed herein or otherwise made pursuant hereto, and (b) cannot be sold unless subsequently registered under the Securities Act or one or more exemptions from registration are available. Such Commitment Party represents and warrants that it has not engaged and will not engage in "general solicitation" or "general advertising" (each within the meaning of Regulation D of the Securities Act ("**Regulation D**")) of or to investors with respect to offers or sales of the New Priority Lien Notes, in each case under circumstances that would cause the offering or issuance of any of such not to be exempt from registration under the Securities Act pursuant to Section 4(a)(2), Regulation S, the provisions of Regulation D, an exemption under the securities Laws pursuant to Section 1145 of the U.S. Bankruptcy Code or any other applicable exemption.

Section 5.5 Purchasing Intent. Each Commitment Party will acquire its New Money Commitment Percentage of the New Priority Lien Notes for its own account, not as a nominee or agent, and not with the view to, or for resale in connection with, any distribution thereof not in compliance with applicable securities Laws, and each such Commitment Party has no present intention of selling, granting any participation in, or otherwise distributing the same, except in compliance with applicable securities Laws.

Section 5.6 Sophistication; Evaluation. Such Commitment Party has such Knowledge and experience in financial and business matters such that it is capable of evaluating the merits and risks of its investment in the New Priority Lien Notes. Such Commitment Party is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act or a "qualified institutional buyer" within the meaning of Rule 144A of the Securities Act. Such Commitment Party understands and is able to bear any economic risks associated with such investment (including the necessity of holding such securities for an indefinite period of time). Except for the

representations and warranties expressly set forth in this Agreement or any other Transacti Agreement, such Commitment Party has independently evaluated the merits and risks of its decision to enter into this Agreement.

Section 5.7 [Reserved.]

Section 5.8 No Conflict. The execution and delivery by such Commitment Party of this Agreement and the other Transaction Agreements to which it is a party, the compliance by such Commitment Party with the provisions hereof and thereof and the consummation of the transactions contemplated herein and therein will not (a) result in any violation of the provisions of the organization or governing documents of such Commitment Party, or (b) result in any violation of any Law or Order applicable to such Commitment Party or any of its properties.

Section 5.9 Consents and Approvals. No consent, approval, authorization, Order, registration or qualification of or with any Governmental Entity having jurisdiction over such Commitment Party or any of its properties is required for the execution and delivery by such Commitment Party of this Agreement and each other Transaction Agreement to which such Commitment Party is a party, the compliance by such Commitment Party with the provisions hereof and thereof and the consummation of the transactions (including the purchase by each Commitment Party of its portion of the New Priority Lien Notes including, if applicable, the Available Securities) contemplated herein and therein.

Section 5.10 Capacity. Such Commitment Party has, or will have on the Escrow Funding Date, available cash to fund the Purchase Commitment.

ARTICLE VI

ADDITIONAL COVENANTS

Section 6.1 RJ Plan Amendment Order; Enforcement Orders; RJ Plan Amendment. Without limitation of the Debtors' other obligations under the PSA, the Debtors shall comply with Section 5.01(j) of the PSA as in effect on the date hereof.

Section 6.2 Conduct of Business. Except as set forth in this Agreement or with the prior written consent of the Requisite Commitment Parties, which consent shall not be unreasonably withheld, conditioned or delayed (requests for which, including related information, shall be directed to the counsel and financial advisors to the Commitment Parties), during the period from the date of this Agreement to the earlier of (1) the Closing Date and (2) the date on which this Agreement is terminated in accordance with its terms, (a) each of the Debtors shall, and shall cause each of their respective Subsidiaries to, carry on its business in the ordinary course and in accordance with the PSA.

Section 6.3 Access to Information; Confidentiality. Without limitation of the Debtors' other obligations under the PSA, until the earlier to occur of (a) the Closing and (b) the termination of this Agreement in accordance with its terms, the Debtors agree to comply with Sections 5.01(j), (l) and (q) of the PSA.

Section 6.4 Blue Sky. Constellation Holding shall timely make all filings and reports relating to the offer and sale of the New Priority Lien Notes issued hereunder to the extent required under applicable U.S. federal securities and "Blue Sky" Laws of the states of the United States and any applicable foreign jurisdictions following the Closing Date. Constellation Holding shall pay all fees and expenses in connection with satisfying its obligations under this Section 6.4.

Section 6.5 DTC Eligibility. To the extent permitted by The Depository Trust Company, Constellation Holding shall use its commercially reasonable efforts to promptly make all New Priority Lien Notes deliverable to the Commitment Parties hereunder eligible for deposit with The Depository Trust Company.

ARTICLE VII

CONDITIONS TO THE OBLIGATIONS OF THE PARTIES

Section 7.1 Conditions to the Obligations of the Commitment Parties. The obligations of each Commitment Party to consummate the transactions contemplated hereby on the Closing Date shall be subject to (unless waived or amended in accordance with Section 7.2) the satisfaction of the following conditions prior to or at the Closing:

(a) RJ Plan Amendment and PSA. The Debtors and the Legacy Shareholders shall have complied, in all material respects, with the terms of the RJ Plan Amendment, the Trust Documents, this Agreement and the PSA that are to be performed by the Debtors on or prior to the Closing Date and the conditions to the occurrence of the Closing Date (other than any conditions relating to the occurrence of the Closing) set forth in the RJ Plan Amendment, the Trust Documents, this Agreement and the PSA shall have been satisfied, including but not limited to, the conversion of debt into Equity Interests, or, with the prior consent of the Requisite Commitment Parties, waived in accordance with the terms of the RJ Plan Amendment, the Trust Documents, this Agreement or the PSA, as applicable.

(b) RJ Plan Amendment and Recognition Orders. The RJ Plan Amendment, the New Money Offering, and all of the transactions contemplated hereby and thereby shall have been approved at the General Creditors' Meeting, including with the express favorable vote of all the Required Consenting Lenders, the Consenting 2024 Noteholders and Bradesco.

(c) RJ Plan Amendment Order. (i) The RJ Plan Amendment Order shall have been entered and published pursuant to applicable law and shall not have been modified, amended, reversed, or vacated; (ii) no stays, injunctions or similar relief shall have been awarded (and any such requests shall have been expressly denied by the highest applicable court to which such request was made) and the time to seek such relief shall have expired; and (iii) no appeals, challenges, or requests for reconsideration, a new trial, rehearing or similar requests with respect to the RJ Plan Amendment Order or the U.S. Enforcement Order or any relief sought in the

Cayman Court or the BVI Court with respect to the Restructuring Transactions shall be pending, and the time to seek such relief shall have expired (for the avoidance of doubt, with respect to the U.S. Enforcement Order, the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, as made applicable by Rule 9024 of the Federal Rules of Bankruptcy Procedure, may be filed relating to such order will not prevent the condition precedent in this clause (c) from being satisfied).

(d) New Money Offering. All provisions regarding the New Money Offering in the RJ Plan Amendment have not been challenged by any creditor, nor subject to any stay or appeal.

(e) New Money Offering and RJ Plan Amendment Order. Nothing in the RJ Plan Amendment Order or any order or decision issued by the Brazilian RJ Court shall have negatively affected the provisions regarding the New Money Offering and its collateral as set forth in the term sheet attached to the PSA, including any acknowledgements that the New Money Offering is a financing transaction in accordance to Section 69-A of the Brazilian Law No. 11,101, of February 9, 2005, including all its protection and privileges, it being recognized as a post-petition claim (*crédito extraconcursal*) for the purposes of such judicial reorganization.

(f) No Injunction or Stay. The RJ Plan Amendment Order and the enforcement Orders in all Ancillary Proceedings shall have not been modified, amended, reversed, or vacated.

(g) [Reserved]

(h) [Reserved]

(i) Outstanding Advisor Invoices. The Debtors shall have paid (or such amounts shall be paid concurrently with the Closing), as applicable, all Outstanding Advisor Invoices as required in accordance with the terms of the PSA, including the RJ Plan Term Sheet. All amounts outstanding and due under the Outstanding Advisor Invoices (including, for the avoidance of doubt, all amounts invoiced at least five (5) Business Days prior to the Closing Date and remaining unpaid) may be netted from any amounts paid from the Purchase Escrow Account to the Company under this Agreement in respect of the Purchase Commitments (unless otherwise agreed between the Company and any such advisor) and shall be paid from such Purchase Escrow Account directly to such advisor.

(j) Consents. All governmental and third-party notifications, filings, consents, waivers and approvals required for the consummation of the transactions contemplated by this Agreement, the PSA, and the RJ Plan Amendment shall have been made or received, except where the failure to so make or receive any of the foregoing does not constitute a material adverse effect on the rights and remedies of the Commitment Parties in connection with the Restructuring Transactions.

(k) U.S. Enforcement Order. The U.S. Enforcement Order shall have been entered and shall not have been modified, amended, reversed, or vacated.

(l) No Legal Impediment to Issuance. No Law or Order shall have be enacted, adopted or issued by any Governmental Entity that prohibits or stays the implementation of the RJ Plan Amendment or the transactions contemplated by this Agreement.

(m) Representations and Warranties. The representations and warranties of the Debtors contained in (i) Article IV (other than those enumerated in clause (ii) hereof) and (ii) Sections 4.6 (Legal Proceedings), 4.7 (Title to Real and Personal Property and Assets; Quality of Assets and Properties), 4.8 (Licenses and Permits) and 4.13 (Insurance) shall be true and correct in all respects on and as of the Closing Date after giving effect to the RJ Plan Amendment with the same effect as if made on and as of the Closing Date after giving effect to the RJ Plan Amendment (except for such representations and warranties made as of a specified date, which shall be true and correct only as of the specified date), except for purposes of clause (ii) where the failure to be so true and correct (A) does not constitute or would not reasonably be expected to constitute, individually or in the aggregate, a material adverse effect on the rights or interests of the Commitment Parties or the consummation of the RJ Plan Amendment or the New Money Offering or (B) does not or would not reasonably be expected to, individually or in the aggregate, otherwise directly result in the creation of liabilities that would result in a material adverse effect to Constellation Holding prior to or following the Closing Date.

(n) Covenants. The Debtors shall have performed and complied, in all material respects, in the reasonable determination of the Requisite Commitment Parties, with all of their respective covenants and agreements contained in this Agreement that contemplate, by their terms, performance or compliance prior to the Closing Date, except where any failure to so perform or comply does not have, individually or in the aggregate, a material adverse effect on the rights and remedies of the Commitment Parties in connection with the Restructuring Transactions.

(o) [Reserved.]

(p) [Reserved.]

(q) Funding Notice. Each of the Commitment Parties shall have received the Funding Notice in accordance with the terms of this Agreement.

(r) [Reserved].

(s) [Reserved].

(t) Collateral. Each Commitment Party shall have received from the Debtors and/or their advisors written evidence of the filing and perfection of the collateral securing the New Priority Lien Notes or a plan that is acceptable in form and substance to the Requisite Commitment Parties to address any collateral not so filed or perfected prior to the Closing Date, in each case consistent with the terms set forth in the RJ Plan Term Sheet.

(u) PSA. The PSA shall be in full force and effect.

Section 7.2 Waiver or Amendment of Conditions to Obligations of Commitment Parties. All or any of the conditions set forth in Sections 7.1(a), (f), (i), (j), and (m) may be waived or amended in whole or in part with respect to all Commitment Parties by a written instrument

executed by the Requisite Commitment Parties in their sole discretion and, if so waived, Commitment Parties shall be bound by such waiver or amendment. Any of the conditions not listed in the preceding sentence may only be waived or amended in whole or in part with respect to all Commitment Parties by a written instrument executed by all Commitment Parties.

Section 7.3 Conditions to the Obligations of the Debtors. The obligation of the Debtors to consummate the transactions contemplated hereby at Closing with any Commitment Party is subject to (unless waived on behalf of the other Debtors by Constellation Holding in writing in its sole discretion) the satisfaction of each of the following conditions as of the Closing Date:

(a) General Creditors' Meeting. The RJ Plan Amendment shall have been approved at the General Creditors' Meeting.

(b) Purchase Escrow Account. The amount held on deposit in the Purchase Escrow Account shall in the aggregate equal $60.0 million.

(c) No Legal Impediment to Issuance. No Law or Order shall have been enacted, adopted or issued by any Governmental Entity that prohibits or stays the implementation of the RJ Plan Amendment or the transactions contemplated by this Agreement.

(d) Representations and Warranties. The representations and warranties of the Commitment Parties contained in this Agreement shall be true and correct (disregarding all materiality or material adverse effect qualifiers) on and as of the Closing Date after giving effect to the RJ Plan Amendment with the same effect as if made on and as of the Closing Date (except for such representations and warranties made as of a specified date, which shall be true and correct in all respects only as of the specified date), except where the failure to be so true and correct in all respects would not reasonably be expected to, individually or in the aggregate, (i) have a material and adverse effect on the ability of such Commitment Parties to consummate the Restructuring Transactions or (ii) otherwise directly result in the creation of liabilities that would result in a material adverse effect to Constellation Holding prior to or following the Closing Date.

(e) Consents. All governmental and third-party notifications, filings, consents, waivers and approvals required for the consummation of the transactions contemplated by this Agreement and the RJ Plan Amendment shall have been made or received.

(f) U.S. Enforcement Order. Solely as a condition to the Debtors' obligations on the Closing Date, the U.S. Bankruptcy Court shall have entered the U.S. Enforcement Order.

(g) Covenants. The Commitment Parties shall have performed and complied, in all material respects, with all of their respective covenants and agreements contained in this Agreement that contemplate, by their terms, performance or compliance prior to the Closing Date.

ARTICLE VIII

INDEMNIFICATION AND CONTRIBUTION

Section 8.1 Indemnification Obligations. Subject to the limitations set forth in this Article VIII, from and after the date of this Agreement, the Debtors or Reorganized Company Parties, as applicable (the "**Indemnifying Parties**" and each, an "**Indemnifying Party**") shall, jointly and severally, indemnify and hold harmless each Commitment Party and its Affiliates, equity holders, members, partners, general partners, managers and its and their respective Representatives and controlling persons (each, an "**Indemnified Person**") from and against any and all losses, Claims, damages, liabilities and costs and expenses (other than Taxes of the Commitment Parties except to the extent otherwise provided for in this Agreement) arising out of or in any way related to a Claim asserted by any holder of 2024 Participating Notes that is not a Commitment Party and has not participated in the New Money Offering (collectively, "**Losses**") that any such Indemnified Person may incur or to which any such Indemnified Person may become subject arising out of or in connection with this Agreement, the Purchase Commitment, the New Money Offering, the Outstanding Advisor Invoices or the use of the proceeds of the New Money Offering, or any Claim, challenge, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any Indemnified Person is a party thereto, and reimburse each Indemnified Person upon demand for reasonable documented out-of-pocket (with such documentation subject to redaction to the extent necessary to preserve attorney client and work product privileges) legal or other third-party expenses actually incurred in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, Claim or other proceeding relating to any of the foregoing (including in connection with the enforcement of the indemnification obligations set forth herein), irrespective of whether or not the transactions contemplated by this Agreement or the RJ Plan Amendment are consummated or whether or not this Agreement is terminated; *provided* that the foregoing indemnity will not, as to any Indemnified Person, apply to Losses (a) as to a Defaulting Commitment Party or its Related Parties related to a Commitment Party Default by such Defaulting Commitment Party or (b) to the extent such Losses are found by a court of competent jurisdiction in a final order to have arisen from the breach by such Indemnified Person of its obligations hereunder or under the PSA, or the willful misconduct or gross negligence of such Indemnified Person.

Section 8.2 Indemnification Procedure. Subject to the limitations set forth in this Article VIII, promptly after receipt by an Indemnified Person of written notice of the commencement of any Claim, challenge, litigation, investigation or proceeding (an "**Indemnified Claim**"), such Indemnified Person will, if a Claim is to be made hereunder against the Indemnifying Party in respect thereof, notify the Indemnifying Party promptly in writing, and in any case no later than fifteen (15) Business Days after receipt by an Indemnified Person of such written notice; *provided*, that (a) the omission to so notify the Indemnifying Party will not relieve the Indemnifying Party from any liability that it may have hereunder except to the extent it has been materially prejudiced by such failure and (b) the omission to so notify the Indemnifying Party will not relieve the Indemnifying Party from any liability that it may have to such Indemnified Person otherwise than on account of this Agreement. In case any such Indemnified Claims are brought against any Indemnified Person and it notifies the Indemnifying Party of the commencement thereof, the Indemnifying Party will be entitled to participate therein, and, at its

election (by providing written notice to such Indemnified Person), the Indemnifying Party will be entitled to assume the defense thereof, with counsel reasonably acceptable to such Indemnified Person; *provided*, that if the parties (including any impleaded parties) to any such Indemnified Claims include both such Indemnified Person and the Indemnifying Party and based on advice of such Indemnified Person's counsel there are legal defenses available to such Indemnified Person that are different from or additional to those available to the Indemnifying Party, such Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such Indemnified Claims. Upon receipt of notice by the Indemnifying Party from the Indemnified Person of its election to so assume the defense of such Indemnified Claims with counsel reasonably acceptable to the Indemnified Person, the Indemnifying Party shall not be liable to such Indemnified Person for expenses incurred by such Indemnified Person in connection with the defense thereof or participation therein (other than reasonable documented out-of-pocket costs of investigation) *unless* (i) such Indemnified Person shall have employed separate counsel (in addition to any local counsel) in connection with the assertion of legal defenses in accordance with the proviso to the immediately preceding sentence (it being understood, however, that the Indemnifying Party shall not be liable for the expenses of more than one separate counsel representing the Indemnified Persons who are parties to such Indemnified Claims (in addition to one local counsel in each jurisdiction in which local counsel is required)), (ii) the Indemnifying Party shall not have employed counsel reasonably acceptable to such Indemnified Person to represent such Indemnified Person within a reasonable time after the Indemnifying Party has received notice of commencement of the Indemnified Claims from, or delivered on behalf of, the Indemnified Person, (iii) after the Indemnifying Party assumes the defense of the Indemnified Claims, the Indemnified Person determines in good faith that the Indemnifying Party has failed or is failing to defend such Claim and provides written notice of such determination and the basis for such determination, and such failure is not reasonably cured within ten (10) Business Days following receipt of such notice by the Indemnifying Party, or (iv) the Indemnifying Party shall have authorized in writing the employment of counsel for such Indemnified Person.

Section 8.3 Settlement of Indemnified Claims. Subject to the limitations set forth in this Article VIII, (a) the Commitment Parties shall not (i) accept, compromise or pay, (ii) agree to arbitrate, compromise or settle or (iii) make any admission or take any action in relation to an Indemnified Claim without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed); and (b) in connection with any Indemnified Claim for which an Indemnified Person is assuming the defense in accordance with this Section 8.3, the Indemnifying Party shall not be liable for any settlement of any Indemnified Claims effected by such Indemnified Person without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed). If any settlement of any Indemnified Claims is consummated with the written consent of the Indemnifying Party or if there is a final judgment for the plaintiff in any such Indemnified Claims, the Indemnifying Party agrees to indemnify and hold harmless each Indemnified Person from and against any and all Losses by reason of such settlement or judgment to the extent such Losses are otherwise subject to indemnification by the Indemnifying Party hereunder in accordance with, and subject to the limitations of, this Article VIII. Notwithstanding anything in this Article VIII to the contrary, if at any time an Indemnified Person shall have requested the Indemnifying Party to reimburse such Indemnified Person for legal or other expenses in connection with investigating,

responding to or defending any Indemnified Claims as contemplated by this Article VIII, the Indemnifying Party shall be liable for any settlement of any Indemnified Claims effected without its written consent if (a) such settlement is entered into more than thirty (30) days after receipt by the Indemnifying Party of such request for reimbursement and (b) the Indemnifying Party shall not have reimbursed such Indemnified Person in accordance with such request prior to the date of such settlement. The Indemnifying Party shall not, without the prior written consent of an Indemnified Person (which consent shall be granted or withheld, conditioned or delayed in the Indemnified Person's sole discretion), effect any settlement of any pending or threatened Indemnified Claims in respect of which indemnity or contribution has been sought hereunder by such Indemnified Person *unless* (a) such settlement includes an unconditional release of such Indemnified Person in form and substance satisfactory to such Indemnified Person from all liability on the Claims that are the subject matter of such Indemnified Claims and (b) such settlement does not include any statement as to, or any admission of, fault, culpability or a failure to act by or on behalf of any Indemnified Person.

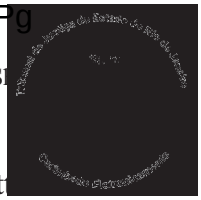
Section 8.4 Limitation on Indemnification. Notwithstanding anything to the contrary in this Agreement, (a) the maximum aggregate amount of indemnifiable Losses that may be recovered for indemnification pursuant to Section 8.1 shall not exceed the full amount of any and all reasonable legal and out of pocket costs and expenses and the full amount of any judgment, Order or award incurred in connection with any Indemnified Claim, and (b) in no event shall the Indemnifying Party be liable to any Indemnified Person for any punitive, indirect, special, exemplary or consequential damages of any nature whatsoever in respect of or arising out of any Losses, and each Commitment Party hereby releases the Indemnifying Party and partners, members, directors, officers, employees, Affiliates and controlling persons therefrom.

Section 8.5 Treatment of Indemnification Payments. All amounts paid by an Indemnifying Party to an Indemnified Person under this Article VIII shall, to the extent permitted by applicable Law, be treated as adjustments to the Purchase Price solely for Tax purposes. The provisions of this Article VIII are an integral part of the transactions contemplated by this Agreement and without these provisions the Commitment Parties would not have entered into this Agreement.

Section 8.6 No Survival. All representations, warranties, covenants and agreements made in this Agreement shall not survive the Closing Date except for any covenants and agreements that by their express terms are to be satisfied after the Closing Date, which covenants and agreements shall survive until satisfied in accordance with their terms. Notwithstanding the foregoing, the indemnification and other obligations of the Debtors pursuant to this Article VIII and the other obligations set forth in Section 9.5 shall survive the Closing Date until the latest date permitted by applicable law and, if applicable, be assumed by the Reorganized Company Parties and their subsidiaries.

ARTICLE IX
TERMINATION

Section 9.1 Consensual Termination. This Agreement may be terminated and the transactions contemplated hereby may be abandoned at any time prior to the Closing Date



(whether or not prior to or after the confirmation of the RJ Plan Amendment) by mutual writt consent of the Debtors and the Requisite Commitment Parties.

Section 9.2 Automatic Termination. This Agreement shall be terminated automatically if (a) the PSA is terminated in accordance with its terms with respect to all Parties thereto or (b) all Commitment Parties have terminated the PSA with respect to themselves in accordance with the terms of the PSA (whether or not prior to or after the confirmation of the RJ Plan Amendment). For the avoidance of doubt, if a Commitment Party exercises an Individual Consenting Stakeholder Termination Right (as defined in the PSA) in accordance with and pursuant to Section 11.02 of the PSA, such Commitment Party will immediately cease to be a party to this Agreement with respect to itself only. For the avoidance of doubt, this Agreement shall automatically terminate if all of the Restructuring Transactions are not consummated on or before the Outside Date.

Section 9.3 [Reserved.]

Section 9.4 [Reserved.]

Section 9.5 Effect of Termination. (a) Upon termination of this Agreement pursuant to this Article IX, this Agreement shall forthwith become void and of no force or effect and there shall be no further obligations or liabilities on the part of the Parties; *provided*, that (i) the obligations of the Debtors to pay the Outstanding Advisor Invoices pursuant to Article III and to satisfy their indemnification obligations pursuant to Article VIII shall survive the termination of this Agreement and shall remain in full force and effect, in each case, until such obligations have been satisfied and (ii) the provisions set forth in this Section 9.5 and Article X shall survive the termination of this Agreement in accordance with their terms and (iii) subject to Section 10.9, nothing in this Section 9.5 shall relieve any Party from liability for its gross negligence, willful misconduct or any willful or intentional breach of this Agreement.

(b) Notwithstanding anything to the contrary herein or in any of the Restructuring Documents, all Parties' respective rights, duties and obligations under this Agreement *vis-à-vis* the Debtors that are subject to the RJ Cases shall terminate upon the occurrence of the Closing Date, which shall include, for the avoidance of doubt, occurrence of the funding or release, as applicable, of the New Priority Lien Notes, automatically and without necessity of further notice or action, subject to any terms and conditions of this Agreement that expressly survive termination. Further, to the extent that this Agreement is terminated in accordance with its terms at any time prior to the Closing Date, then all Parties' respective rights, duties and obligations under this Agreement and the Restructuring Documents, taken as a whole, *vis-à-vis* the Debtors shall terminate in their entirety subject to any terms and conditions of this Agreement that expressly survive termination.

ARTICLE X

GENERAL PROVISIONS

Section 10.1 Notices. All notices and other communications in connection with this Agreement shall be in writing and shall be deemed given if delivered personally, sent via

electronic facsimile (with confirmation), mailed by registered or certified mail (return receipt requested) or delivered by an express courier (with confirmation) to the Parties at the following addresses (or at such other address for a Party as may be specified by like notice); *provided* that a copy of such notice or other communication be delivered to all other Consenting Stakeholders at their respective addresses for notice set forth in the PSA:

(a) if to Constellation Holding, on its behalf and on behalf of the Debtors, to:

Constellation Oil Services Holding S.A.
8-10, Avenue de la Gare
L-1610 Luxembourg
Attention: Rodrigo Ribeiro; rribeiro@theconstellation.com
Attention: Camilo McAllister; cmcallister@theconstellation.com
Attention: Sebastian Francois; Sebastian.francois@centralis.lu
Fax: +352 4967 679851 / + 352 2088 0599

With copies (which shall not constitute notice) to:

White & Case LLP, as counsel to Constellation Holding
Southeast Financial Center, 200 South Biscayne Boulevard
Suite 4900 Miami, FL 33131-2352
Attention: John K. Cunningham; jcunningham@whitecase.com
Attention: Richard S. Kebrdle; rkebrdle@whitecase.com

(b) If to the Commitment Parties (or to any of them) or any other Person to which notice is to be delivered hereunder, to the address set forth opposite each such Commitment Party's name on Schedule 3,

With copies (which shall not constitute notice) to:

Milbank LLP
55 Hudson Yards
New York, New York 10001
Tel: (212) 530-5123
Attention: Abhi Raval; ARaval@milbank.com
Attention: Paul Denaro; PDenaro@milbank.com
Attention: Mary Doheny; mdoheny@milbank.com

and

Thomaz Bastos, Waisberg, Kurzweil Advogados
Av. Brigadeiro Faria Lima, 3311, 13º andar.
São Paulo, SP, CEP 04538-133, Brazil
Attn: Ivo Waisberg; ivo@twk.com.br
Attn: Herbert Morgenstern Kugler; herbert@twk.com.br

Section 10.2 Assignment; Third-Party Beneficiaries.

(a) Neither this Agreement nor any of the rights, interests or obligations under this Agreement shall be assigned by any Party (whether by operation of Law or otherwise) without the prior written consent of Constellation Holding and the Requisite Commitment Parties, other than an assignment by a Commitment Party expressly permitted by Section 2.3 or Section 2.6, and any purported assignment in violation of this Section 10.2 shall be void *ab initio* and of no force or effect.

(b) [Reserved]

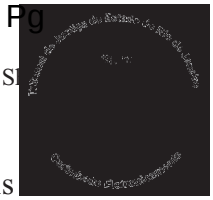
Section 10.3 Prior Negotiations; Entire Agreement.

(a) This Agreement (including the agreements attached as Exhibits to and the documents and instruments referred to in this Agreement) constitutes the entire agreement of the Parties and supersedes in all respects all prior agreements, arrangements or understandings, whether written or oral, among the Parties with respect to the subject matter of this Agreement, except that the Parties hereto acknowledge that the PSA and any confidentiality agreements heretofore executed between or among the Parties will each continue in full force and effect.

(b) Notwithstanding anything to the contrary in the RJ Plan Amendment (including any amendments, supplements or modifications thereto), the RJ Plan Amendment Order, the U.S. Enforcement Order (including any amendments, supplements or modifications thereto), an affirmative vote to accept the RJ Plan Amendment submitted by any Commitment Party, the Post-Effective Debt Documentation and such other agreements or documents referred to herein or therein, nothing contained in the RJ Plan Amendment (including any amendments, supplements or modifications thereto), the RJ Plan Amendment Order, the U.S. Enforcement Order (including any amendments, supplements or modifications thereto), an affirmative vote to accept the RJ Plan Amendment submitted by any Commitment Party, the Post-Effective Debt Documentation and such other agreements or documents referred to herein or therein shall alter, amend or modify the rights of the Commitment Parties under this Agreement, unless such alteration, amendment or modification has been made in accordance with Section 10.7.

Section 10.4 Governing Law; Submission to Jurisdiction; Selection of Forum.

(a) THIS AGREEMENT IS TO BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED IN SUCH STATE, WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF THAT REQUIRE THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. Each Party hereto consents to the non-exclusive jurisdiction of the state courts located in the State of New York in the County of New York and the United States District Court for the Southern District of New York in connection with any suit, action, or proceedings with respect to this Agreement, and solely in connection with Claims arising under this Agreement (i) waives any objection to laying venue in any such action or proceeding in the state courts located in the State of New York in the County of New York and the United States District Court for the Southern District of New York and (ii) waives any objection that any of the state courts located in the State of New York in the County



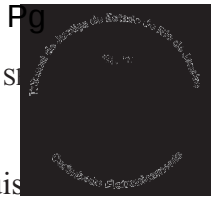
of New York and the United States District Court for the Southern District of New York is inconvenient forum or does not have jurisdiction over any Party; *provided that* each of the Parties hereby agrees that the Brazilian RJ Court shall have jurisdiction over matters under Brazilian Bankruptcy Law; *provided further* that nothing contained herein shall preclude the state courts located in the State of New York, the United States District Court for the Southern District of New York or the U.S. Bankruptcy Court from exercising jurisdiction over disputes arising under or enforcement of the PSA or this Agreement.

(b) Constellation Holding irrevocably appoints Cogency Global Inc., with offices presently located at 122 East 42nd Street, 18th Floor, New York, New York 10168, United States, as its authorized agent on which any and all legal process may be served in any such action, suit or proceeding brought in the United States District Court for the Southern District of New York or in any New York State court (in either case sitting in Manhattan, New York City). Constellation Holding agrees that service of process in respect of it upon such agent, together with written notice of such service sent to it in the manner provided in Section 10.1, shall be deemed to be effective service of process upon it in any such action, suit or proceeding. Constellation Holding agrees that the failure of such agent to give notice to it of any such service of process shall not impair or affect the validity of such service or any judgment rendered in any action, suit or proceeding based thereon. If for any reason such agent shall cease to be available to act as such (including by reason of the failure of such agent to maintain an office in New York City), Constellation Holding agrees promptly to designate a new agent in New York City, on the terms and for the purposes of this Section 10.4. Nothing in this Agreement shall affect any right of any agent to commence legal proceedings or otherwise sue Constellation Holding in Brazil, or in any other appropriate jurisdiction or to serve process, pleadings and other legal papers upon Constellation Holding in any manner authorized by the laws of any such jurisdiction.

Section 10.5 Waiver of Jury Trial. EACH PARTY HEREBY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY JURISDICTION IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE AMONG THE PARTIES UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE.

Section 10.6 Counterparts. This Agreement may be executed in any number of counterparts, all of which will be considered one and the same agreement and will become effective when counterparts have been signed by each of the Parties and delivered to each other Party (including via facsimile or other electronic transmission), it being understood that each Party need not sign the same counterpart. Any facsimile or electronic signature shall be treated in all respects as having the same effect as having an original signature.

Section 10.7 Waivers and Amendments; Cumulative Rights; Consent. This Agreement may be amended, restated, modified or changed only by a written instrument signed by Constellation Holding and the Requisite Commitment Parties, and to the extent permitted in accordance with the terms of the PSA; *provided*, that (a) any Commitment Party's prior written consent shall be required for any amendment that would, directly or indirectly: (i) modify such Commitment Party's New Money Commitment Percentage, or (ii) have a materially adverse and disproportionate effect on such Commitment Party, and (b) the prior written consent of each Commitment Party shall be required for any amendment that would, directly or indirectly, modify a Significant Term. Notwithstanding the foregoing, Schedule 2 shall be revised as necessary



without requiring a written instrument signed by Constellation Holding and the Requis Commitment Parties to reflect conforming changes in the composition of the Commitment Parties and New Money Commitment Percentages as a result of Transfers permitted and consummated in compliance with the terms and conditions of this Agreement. The terms and conditions of this Agreement (other than the conditions set forth in Section 7.1, the waiver and amendment of which shall be governed solely by Section 7.2) may be waived or amended by the (a) Debtors only by a written instrument executed by Constellation Holding and (b) Requisite Commitment Parties only by a written instrument executed by the Requisite Commitment Parties. No delay on the part of any Party in exercising any right, power or privilege pursuant to this Agreement will operate as a waiver thereof, nor will any waiver on the part of any Party of any right, power or privilege pursuant to this Agreement, nor will any single or partial exercise of any right, power or privilege pursuant to this Agreement, preclude any other or further exercise thereof or the exercise of any other right, power or privilege pursuant to this Agreement.

Section 10.8 Headings. The headings in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.

Section 10.9 Damages. Notwithstanding anything to the contrary in this Agreement, none of the Parties will be liable for, and none of the Parties shall Claim or seek to recover, any punitive, special, indirect or consequential damages or damages for lost profits in connection with the breach or termination of this Agreement.

Section 10.10 No Reliance. No Commitment Party or any of its Related Parties shall have any duties or obligations to the other Commitment Parties in respect of this Agreement, the RJ Plan Amendment or the transactions contemplated hereby or thereby, except those expressly set forth herein. Without limiting the generality of the foregoing, (a) no Commitment Party or any of its Related Parties shall be subject to any fiduciary or other implied duties to the other Commitment Parties, (b) no Commitment Party or any of its Related Parties shall have any duty to take any discretionary action or exercise any discretionary powers on behalf of any other Commitment Party, (c) no Commitment Party or any of its Related Parties shall have any duty to the other Commitment Parties to obtain, through the exercise of diligence or otherwise, investigate, confirm, or disclose to the other Commitment Parties any information relating to the Debtors or any of their Subsidiaries that may have been communicated to or obtained by such Commitment Party or any of its Affiliates in any capacity, (d) no Commitment Party may rely, and each confirms that it has not relied, on any due diligence investigation that any other Commitment Party or any Person acting on behalf of such other Commitment Party may have conducted with respect to the Debtors or any of their Affiliates or any of their respective securities, and (e) each Commitment Party acknowledges that no other Commitment Party is acting as a placement agent, initial purchaser, underwriter, broker or finder with respect to its New Priority Lien Notes or New Money Commitment Percentage of its Purchase Commitment.

Section 10.11 Publicity. At all times prior to the Closing Date or the earlier termination of this Agreement in accordance with its terms, Constellation Holding and the Commitment Parties shall consult with each other prior to issuing any press releases (and provide each other a reasonable opportunity to review and comment upon any such release) or otherwise making public announcements with respect to this Agreement, it being understood that nothing in this Section 10.12 shall prohibit any Party from filing any motions or other pleadings or documents

with the Brazilian RJ Court or the U.S. Bankruptcy Court in connection with the Brazilian RJ Proceeding or the Chapter 15 Proceedings, respectively.

Section 10.12 Settlement Discussions. This Agreement and the transactions contemplated herein are part of a proposed settlement of a dispute between the Parties. Nothing herein shall be deemed an admission of any kind. Pursuant to Rule 408 of the U.S. Federal Rule of Evidence and any applicable state rules of evidence or rules of similar import under the laws of any applicable foreign jurisdictions, this Agreement and all negotiations relating thereto shall not be admissible into evidence in any Legal Proceeding, except to the extent a copy of this Agreement is filed with, or the existence of this Agreement is disclosed to, the Brazilian RJ Court or the U.S. Bankruptcy Court in connection with the Brazilian RJ Proceeding or the Chapter 15 Proceedings, respectively.

Section 10.13 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement, and notwithstanding the fact that certain of the Parties may be partnerships or limited liability companies, each Party covenants, agrees and acknowledges that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any Party's Affiliates or any of the respective Related Parties of such Party or of the Affiliates of such Party (in each case other than the Parties to this Agreement and each of their respective successors and permitted assignees under this Agreement), whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any applicable Law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any of such Related Parties, as such, for any obligation or liability of any Party under this Agreement or any documents or instruments delivered in connection herewith for any Claim based on, in respect of or by reason of such obligations or liabilities or their creation; *provided*, however, nothing in this Section 10.14 shall relieve or otherwise limit the liability of any Party hereto or any of their respective successors or permitted assigns for any breach or violation of its obligations under this Agreement or such other documents or instruments. For the avoidance of doubt, none of the Parties will have any recourse, be entitled to commence any proceeding or make any Claim under this Agreement or in connection with the transactions contemplated hereby except against any of the Parties or their respective successors and permitted assigns, as applicable.

Section 10.14 Fiduciary Duties.

Nothing in this Agreement shall require the Debtors, nor the Debtors' directors, managers, and officers, to take or refrain from taking any action (including, without limitation, terminating this Agreement under Article VII) to the extent such person or persons determines, based on the advice of counsel, that taking, or refraining from taking, such action, as applicable, would be inconsistent with applicable law or its fiduciary obligations under applicable law; provided, that this Section 10.15 shall not impede any Party's right to terminate this Agreement pursuant to Article IX.

Section 10.15 Severability. In the event that any one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and of the remaining provisions contained herein will not be in any way impaired thereby, it being

Section 10.16 Constellation Holding as Debtors' Agent. Each Debtor by execution of this Agreement hereby irrevocably authorizes Constellation Holding to give all notices and instructions and make such agreements (including, without limitation, in relation to Section 12 of the PSA) expressed to be capable of being given or made by Constellation Holding or that Debtor, notwithstanding that they may affect that Debtor, without further reference to or the consent of that Debtor; *provided that* in the case of the JPL Entities, Constellation Holding shall in each case first have obtained the written consent of the Joint Provisional Liquidators to give such notice or instruction or to make such agreement, and that Debtor shall, as regards the other Parties, be bound thereby as though that Debtor had agreed with that change, given that notice or made that agreement.

Section 10.17 Effective Date. This Agreement will be effective and binding on each of the Parties hereto as of the date it is executed by each Party hereto.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of t date first above written.

[Signature Pages Follow]

SCHEDULE 1 – RJ Debtors

- Constellation Oil Services Holding S.A.
- Alpha Star Equities Ltd (In Provisional Liquidation)
- Lone Star Offshore Ltd (In Provisional Liquidation)
- Gold Star Equities Ltd (In Provisional Liquidation)
- Constellation Overseas Ltd (In Provisional Liquidation)
- Star International Drilling Ltd. (In Provisional Liquidation)
- Snover International, Inc
- Arazi S.a.r.l.
- Brava Star Ltd.
- Laguna Star Ltd.
- Amaralina Star Ltd.
- Serviços de Petróleo Constellation Participações S.A. – under judicial reorganization
- Serviços de Petróleo Constellation S.A. – under judicial reorganization
- Constellation Services Ltd. (In Provisional Liquidation)
- Lancaster Projects Corp.
- Manisa Serviços de Petróleo Ltda. – under judicial reorganization
- Tarsus Serviços de Petróleo Ltda. – under judicial reorganization

SCHEDULE 2 – COMMITMENT PARTIES AND NEW MONEY COMMITMENT PERCENTAGES

[Redacted]

SCHEDULE 3 – NOTICE ADDRESSES FOR COMMITMENT PARTIES

Commitment Party	Address
CapRe Group American High-Income Trust American Funds Insurance Series -- Asset Allocation Fund The Income Fund of America	Capital Research and Management Company 399 Park Avenue, 34th Floor New York, NY 10022 Attention: David Daigle; david_daigle@capgroup.com Attention: Kristine M. Nishiyama; Kristine_Nishiyama@capgroup.com
Moneda Group Moneda Alturas II Fondo de Inversión Moneda Deuda Latinoamericana Fondo de Inversión Moneda Latin American Corporate Debt	Moneda S.A AGF and Moneda International, Inc. Isidora Goyenechea 3621, 8th Floor, Santiago, Chile Attention: Alexander Sideman; asideman@moneda.cl
PIMCO Group Each Commitment Party for which Pacific Investment Management Company LLC serves as investment manager or adviser	Pacific Investment Management Company LLC 650 Newport Center Drive Newport Beach, California 92660 Attention: Nick Mosich; nick.mosich@pimco.com Ellen Wheeler; ellen.wheeler@pimco.com

SCHEDULE 6

THE 2021 INSOLVENCY PROTOCOL

Insolvency Protocol

Constellation Overseas Ltd ("**Constellation**"), Constellation Services Ltd ("**Constellation Services**"), Lone Star Offshore Ltd ("**Lone Star**"), Gold Star Equities Ltd ("**Gold Star**"), Olinda Star Ltd ("**Olinda Star**"), Alpha Star Equities Ltd ("**Alpha Star**"), Hopelake Services Ltd ("**Hopelake**"), (the **"BVI Filing Entities**") and Star International Drilling Ltd ("**Star**") (collectively the**" JPL Filing Entities**" and the "**Companies**") and Eleanor Fisher of EY (Cayman) Ltd. and Roy Bailey of Ernst & Young Ltd. British Virgin Islands, as joint provisional liquidators (the "**JPLs**" and together with the Companies, the "**Parties**") of the Companies enter into this Insolvency Protocol Agreement (the "**Protocol**") with the Companies (acting by their directors) severally, as follows:

Preliminary Statement

The purpose of this Protocol is to ensure the just, efficient, orderly and expeditious administration of the provisional liquidation proceedings in the British Virgin Islands and the Cayman Islands (the "**Proceedings**"), to avoid duplication of work and conflict between the JPLs and the directors and management of the Companies, and to facilitate the function of the Proceedings in support of the Companies' global restructuring, as progressing in a centralised forum in Brazil through a judicially-supervised Brazilian *recuperacao judicial* (the "**RJ**") ("**Brazilian RJ Proceeding"**).

The Proceedings

A. On 6 December 2018, the Companies (excluding Hopelake) along with certain of their affiliates (the "**RJ Debtors**") filed a petition in Brazil commencing their procedurally joint Brazilian RJ Proceeding. The Companies are part of a global oil and gas enterprise (the "**Constellation Group**" or the "**Group**"). The Group elected to commence its centralised

restructuring in Brazil because Brazil has historically been and presently is the operational centre of the Group's business; Brazil is the *principal estabelecimento* or "principal place of business" of the Group for purposes of Brazilian restructuring law; and Brazil is the "centre of main interests" or "COMI" of each debtor filing for chapter 15 recognition for the purposes of U.S. restructuring law (relevant here because of the Group's New York-law governed debt).

B. On 6 December 2018, the Brazilian Court entered an order formally accepting the RJ Debtors into the RJ. An amended plan support and lock-up agreement with a number of creditors was executed on 28 June 2019, and at a general creditors' meeting on 27 and 28 June 2019 the reorganisation plan (the "**RJ Plan**") was approved by creditors of the RJ Debtors. On 1 July 2019, the Brazilian RJ Court confirmed the RJ Plan.

C. In order to achieve a globally coordinated, centralised and holistic restructuring, the Companies also commenced complementary restructuring proceedings in the BVI and in the United States. In the United States, certain affiliated RJ Debtors commenced proceedings in New York under chapter 15 of the U.S. Bankruptcy Code (the "**Chapter 15 Proceedings**") seeking recognition of the RJ. The RJ Plan was recognised by the US Bankruptcy Court on 4 December 2019 in the Chapter 15 Proceedings, with the order issued on 5 December 2019. In the BVI, certain affiliated RJ Debtors each filed an Originating Application and Ordinary Application in the BVI Commercial Court (the "**BVI Court**") seeking the appointment of joint provisional liquidators pursuant to s.170 of the BVI Insolvency Act, 2003; on 19 December 2018, the BVI Court appointed to each of those applicants joint provisional liquidators. There were subsequently several extensions before the joint provisional liquidators' appointment

terminated on 18 December 2019 in respect of the majority of the companies,[1] following a successful restructuring. In respect of Olinda Star, following a successful application to the BVI Court to sanction a scheme of arrangement in late 2019, the appointment of the JPLs terminated on 7 April 2020.

D. As a result of liquidity issues, the RJ Debtors intend to apply within the Brazilian RJ Proceeding seeking (i) an extension of the supervision period of the RJ Court, (ii) a suspension of all obligations under the RJ Plan, and (iii) approval of an amended RJ plan following a further creditor vote. The RJ Debtors have concurrently sought the appointment of the JPLs in the BVI Courts and Cayman Islands' Courts in parallel support of this action.

E. By way of Orders dated 8 April 2021, the BVI Court appointed to each of the BVI Filing Entities joint provisional liquidators (the "**BVI Appointment Orders**").

F. By way of Order dated 13 April 2021, the Cayman Court appointed to Star joint provisional liquidators (the "**Cayman Appointment Order**").

G. In order to ensure that the Proceedings are conducted efficiently and, as intended, that they provide needed support to the Brazilian RJ Proceeding and the proposed RJ Plan Amendment, the JPLs and the Companies wish to enter into the terms of this Protocol.

[1] Constellation, Lone Star Offshore Ltd, Gold Star Equities Ltd, Snover International Inc. and Alpha Star Equities Inc

NOW THEREFORE, subject to the powers already afforded to the JPLs under the BVI Appointment Orders and the Cayman Appointment Order and for so long as the JPLs remain appointed to any of the Companies as provisional liquidators, the JPLs and the Companies (acting by their respective director(s)) hereby agree the following as to those Companies to which they remain appointed:

(1) Each of the Companies (acting by their directors, or those granted powers-of-attorney by the directors for the management of the company, such persons "**Authorised Managers**") shall continue to provide such information as is reasonably requested by the JPLs, including without limitation, reasonable requests for explanations or information as to:

(a) the actions or decisions taken by the Companies;

(b) the proposed terms of the incurrence of any new indebtedness or borrowing of money by the Companies whether pursuant to loan arrangements with financing institutions, bank or otherwise, and the granting of the security in respect of the same, and the guaranteeing of any indebtedness or borrowings of affiliates, which in each case will be subject to limitations within the Brazilian RJ Proceeding and/or the oversight of the Brazilian RJ Court;

(c) the proposed sale or disposal of any assets of the Companies;

(d) the Brazilian RJ Proceeding, the RJ Plan, the RJ Plan Amendment and any other proposed amendment of the RJ Plan, including discussions and communications with creditors; and

(e) any Chapter 15 proceedings in the United States with relation to any of the JPL Filing Entities.

(2) The Companies shall be permitted, subject to the JPLs' oversight and monitoring and unless otherwise ordered by the Court, to operate their businesses in the ordinary course, including the ordinary course operation of cash management systems and bank accounts, which in each case will be subject to limitations within the Brazilian RJ Proceeding.

(3) In order to facilitate communication between the Companies and the JPLs, and to ensure the JPLs are adequately informed as to the ongoing activities and decisions of the Companies, the officers and directors (or their authorised representatives, including Authorised Managers) of the Companies shall include the JPLs in any board meetings of the Companies and shall supply the JPLs with copies of any draft written resolutions prior to any meetings.

(4) The JPLs (or a representative thereof) shall meet with an Authorised Manager of the JPL Filing Entities and a representative of the Constellation Group with current and up to date knowledge of the Brazilian RJ Proceeding in person or by telephone or videoconference or by whatever means is most appropriate on a weekly basis, or at such other intervals as the JPLs require, to address matters such as budgeting, cash expenditures, cash management, ordinary course transactions and all other matters reasonably necessary to keep the JPLs informed as their appointment and duties require (the "**Update Meetings**"). The Update Meetings shall also include regular and timely updates regarding the progress of the Brazilian RJ Proceedings and any proceedings involving the JPL Filing Entities in any jurisdiction or territory, including updates as to any discussions and or meetings with relevant stakeholders.

(5) The Authorised Manager shall supply to the JPLs, in a timely manner, updated iterations of any (i) cash flow forecasts, and (ii) copies of reports issued by A&M and/or BCG relating to the RJ Plan (or any amendment thereof).

(6) The directors and/or the Authorised Managers shall obtain the JPLs' prior approval of the exercise of the directors' powers outside of the ordinary course of business, which in each case will be subject to limitations within the Brazilian RJ Proceeding and/or the oversight of the Brazilian RJ Court. In the event that the JPLs and the directors and/or the Authorised Managers cannot agree upon a proposed non-ordinary course action, the JPLs and the directors have liberty to apply to this Court for directions.

(7) The Parties acknowledge that the Companies are engaged in a global restructuring with certain affiliates that is centered in the Brazilian RJ Proceeding. The Proceedings have been commenced in support of the global restructuring centered in Brazil, and that other foreign restructuring proceedings, including any Chapter 15 Proceedings in the United States are additionally in support of the Brazilian RJ Proceeding. To facilitate the role of the Proceedings in this global restructuring and to ensure that they provide needed support thereto, the JPLs will seek where possible (in accordance with their duties to the Companies' creditors) to exercise their duties accordingly.

(8) Each of the Companies has granted to the Brazilian law firm of Galdino & Coelho Advogados ("**G&C**") a power-of-attorney to act on its behalf, if involved, in the course of the Brazilian RJ Proceeding. In the course of the Brazilian RJ Proceeding, G&C will routinely enter filings with the Brazilian RJ Court, including motions for relief on behalf of the Companies. As G&C

is expected to enter numerous filings with the Brazilian Court, many which are routine and/or minor and some of which must be entered at short notice, it is not feasible for G&C on behalf of the Companies to obtain permission from the JPLs, and in some case to give advance notice to the JPLs, of any expected filing. Nevertheless, the Parties recognise the importance of keeping the Companies and the JPLs equally apprised of and involved in important steps in the Brazilian RJ Proceeding, including filings made on behalf of the Companies. The Parties expect that G&C will provide routine informational updates on the development of the RJ Proceeding to the Companies and to the JPLs in tandem, and that any such updates or other information about progress in the Brazilian RJ Proceeding that is provided to the Companies will also be readily provided to the JPLs. The Parties also understand that the JPLs may have questions about the Brazilian restructuring process (the RJ), and the Companies will direct their counsels, including G&C, to readily address any such queries.

(9) The Parties expect that G&C will provide, in a timely manner, to the Companies and the JPLs oral updates and English translations of drafts of any documents pertaining to the RJ Proceeding, the RJ Plan, the RJ Plan Amendment and any other proposed amendment of the RJ Plan, as well as materials in support of the RJ Plan, the RJ Plan Amendment and any other proposed amendment of the RJ Plan, such as valuation reports, liquidation analyses, and other schedules and reports.

(10) The Parties expect that White & Case LLP, in its capacity as counsel to Andrew Childe, the foreign representative of the Brazilian RJ Proceeding with respect to each of the JPL Filing Entities, will provide to the Companies and the JPLs timely and regular updates as to the relevant Chapter 15 proceedings relating to any of the JPL Filing Entities.

(11) The JPLs shall give notice to the Companies of all proceedings in the BVI and or Cayman Court and shall not object to the Companies attending and seeking to be heard at any hearings before the BVI or Cayman Court.

(12) The JPLs may communicate and/or consult with any of the Companies' creditors, as and when and in the manner they believe it is appropriate to do so, following consultation with and consent of the directors of the relevant JPL Filing Entity, such consent not to be unreasonably withheld or delayed.

(13) The JPLs shall consult and obtain the consent of the Companies (such consent not to be unreasonably withheld) prior to the appointment of any additional professional advisors.

(14) The JPLs may, as they deem necessary and subject to any ruling of the BVI or Cayman Court, apply for directions or sanction from the BVI or Cayman Court in relation to any matter. For the avoidance of doubt, this right is without prejudice to the right of the Companies to be put on notice of any such application and the right to be heard and, where necessary, object to the directions sought.

(15) The BVI Court shall have exclusive jurisdiction over the remuneration of the JPLs of the BVI Filing Entities, and the Cayman Court shall have exclusive jurisdiction over the remuneration of the JPLs of Star. The JPLs shall seek approval of their remuneration from the BVI and/or Cayman Court as necessary. The JPLs shall open a bank account, and shall deposit an initial US$400k from the assets of the Companies to facilitate the payment of BVI and Cayman restructuring costs, fees, disbursements and such other expenses as the JPLs shall be required to settle from time to time during the course of the Proceedings.

(16) The JPLs acknowledge that in the course of the performance of their duties they will have access to and be provided with trade secrets and other confidential material ("**Confidential Information**"). The JPLs agree to keep such Confidential Information confidential and shall not, without the approval of the BVI or Cayman Court or agreement of the Companies (or as otherwise required by law), reveal, divulge or in any other manner authorise the access to or publish Confidential Information, to any person, entity or company, nor use the Confidential Information for any other purpose that is not directly related to their role as JPLs of the Companies. Notwithstanding the foregoing, the JPLs may disclose Confidential Information on a need-to-know basis to their Representatives ("**Representatives**" of the JPLs means their and EY (Cayman) Ltd.'s and/or Ernst & Young Ltd. British Virgin Islands' employees, directors, officers, agents, associates, colleagues, and advisors, including lawyers, accountants, auditors and consultants).

(17) This Protocol shall be binding on and inure to the benefit of the parties hereto and their respective successors, assigns, representatives, heirs, executors, administrators, liquidators, trustees, and receivers, receiver managers, or custodians appointed.

(18) This Protocol may not be waived, amended or modified except in writing by all parties and subject to the approval and authorisation of the BVI Court with respect to the BVI Filing Entities and the Cayman Court with respect to Star.

(19) Each party represents and warrants to the other that its execution, delivery, and performance of this Protocol are within the power and authority of such party and have been duly

authorised by such party (except that it is acknowledged that approval of the BVI Court (with respect to the BVI Filing Entities) and Cayman Court (with respect to Star) is required).

(20) This Protocol may be signed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument, and may be signed by PDF signature, which shall be deemed to constitute an original signature.

(21) The parties hereto are hereby authorised to take such actions and execute such documents as may be necessary and appropriate to implement and effectuate the terms of this Protocol.

(22) This Protocol shall be deemed effective upon its approval by the BVI Court with relation to the BVI Filing Entities, and the Cayman Court with respect to Star. This Protocol shall have no binding or enforceable legal effect until approved by BVI Court with relation to the BVI Filing Entities and by the Cayman Court with respect to Star.

IN WITNESS WHEREOF the parties hereto have caused this Protocol to be executed either individually or by their respective attorneys or representatives hereunto authorised.

JOINT PROVISIONAL LIQUIDATORS

By:
Eleanor Fisher as joint provisional liquidator and without personal liability

Date: 19 April 2021

By:
Roy Bailey as joint provisional liquidator and without personal liability

Date: 19 April 2021

Mr. Michael Pearson, on behalf of each of the JPL Filing Entities in his capacity of a director of the JPL Filing Entities

By:_____
Name: Michael Pearson
Title: Director

Date: Apr 18, 2021

SCHEDULE 7

THE NOTICE

NOTICE OF COURT CONVENED MEETING

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS

COMMERCIAL DIVISION

CLAIM NO: BVIHC (COM) 2021/0061

IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

AND

IN THE MATTER OF OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

Terms used in this Notice have the same meanings as in the scheme circular (the **Scheme**) relating to the proposed scheme of arrangement between Olinda Star Ltd (in Provisional Liquidation) (the **Company** or **Olinda**) and the Scheme Creditors (as defined therein) under section 179A of the BVI Business Companies Act, 2004 (the **Act**).

NOTICE IS HEREBY GIVEN that, by an order dated 18 July 2022 (the **Order**) made in the above matter, the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands (the **BVI Court**) has directed a meeting (the **Court Convened Meeting**) to be convened between the Company and the Scheme Creditors for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement (the **Scheme of Arrangement**) pursuant to section 179A of the Act proposed by the Company and to be made between the Company and the Scheme Creditors and that such Court Convened Meeting will be held at the offices of White & Case, 1221 6th Avenue, New York, 10020, United States of America and via webinar or other virtual means at 13:00 (New York time) on 13 September 2022.

All Scheme Creditors are requested to attend the Court Convened Meeting either in person (either physically or virtually), by an authorised representative (if a corporation), or by proxy.

To be approved, the Scheme of Arrangement must be approved by a majority in number representing 75% in value of the creditors or class of creditors present and voting either in person or by proxy at the meeting. At the Court Convened Meeting the following resolution will be proposed:

"THAT the Scheme of Arrangement proposed by the Company, particulars of which are set out in the Scheme, a copy of which has been tabled at this Court Convened Meeting, be approved subject to any modification, addition or condition which the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands may think fit to approve or impose which would not directly or indirectly have a material adverse effect on the rights of the Scheme Creditors."

A copy of the Scheme of Arrangement and a copy of the Scheme explaining the effect of the Scheme of Arrangement are incorporated into the composite document of which this notice forms part. A copy of such document has been made available to the Scheme Creditors through the DTC's Legal Notice System (in respect of the Existing Notes) and sent to Banco Bradesco at Banco Bradesco S.A., Grand Cayman Branch, 75 Fort Street, Appleby Tower, 5th floor

Georgetown, KY1-1109, Grand Cayman, Cayman Islands (in respect of the Existing Bradesco Credit Agreements); and uploaded by the Scheme Company to the "Olinda Restructuring" section of Constellation Holding's website at:

https://www.theconstellation.com/Download.aspx?Arquivo=/nPfsv17RoC9zkl5cSyaVw==&IdCanal=GgZrgRjwxBRA+vpj1rBOlg==

Voting Record Time

Entitlement to attend and vote at the Court Convened Meeting and the number of votes attributable to an individual Scheme Creditor will be as set out in the Scheme.

Voting Procedures

Scheme Creditors may vote in person, by a duly authorised representative or by proxy at the Court Convened Meeting in accordance with the voting instructions more particularly set out in the Scheme. A Scheme Creditor that has a beneficial or contingent interest as a Noteholder in relation to the Existing Notes or an interest in relation to the Existing Bradesco Credit Agreements who wishes to vote at the Court Convened Meeting is requested to liaise with the Scheme Administrator in accordance with the instructions contained in the Voting and Proxy Forms and, in any event, so as to be received by **13:00 (New York time) on 12 September 2022** (the **Submission Deadline**).

A Scheme Creditor on whose behalf a duly completed Voting and Proxy Form is submitted before the Submission Deadline may still attend the Court Convened Meeting in person. If a Scheme Creditor intends to attend the Court Convened Meeting, it may amend its voting instructions provided in a previously submitted Voting and Proxy Form by submitting a new validly completed Voting and Proxy Forms to the Chairman of the Court Convened Meeting before the start of the Court Convened Meeting.

The Trustee is a Scheme Creditor for the purpose of the Scheme. However, under the terms of the voting rights set out in the Scheme it will be considered not to have any votes vote at the Court Convened Meeting.

Any Scheme Creditor who wishes to be represented in person at the Court Convened Meeting (or its proxy) will be required to register its attendance at the Court Convened Meeting prior to its commencement. Registration will commence at 12:00pm (New York time) on 13 September 2022. A passport will be required as proof of personal identity to attend the Court Convened Meeting and, in the case of a corporation, evidence of corporate authority (for example, a valid power of attorney and/or board minutes). Each proxy must bring to the Court Convened Meeting a copy of the Voting and Proxy Form of the Scheme Creditor having been duly completed authorising him or her to act as proxy on behalf of the Scheme Creditor and evidence of personal identity. For persons wishing to attend virtually details of how to be attend virtually will be provided upon their registration for attendance.

If appropriate personal identification is not produced, that person will only be permitted to attend and vote at the Court Convened Meeting at the discretion of the Chairman of the Court Convened Meeting.

Chairman of the Court Convened Meeting

By the said Order, the BVI Court has appointed Eleanor Fisher, to act as the Chairman of the Court Convened Meeting and has directed the Chairman of the Court Convened Meeting to report the result thereof to the BVI Court.

If the requisite majority of Scheme Creditors approve the Scheme of Arrangement at the Court Convened Meeting, the BVI Court will convene a hearing to consider whether to sanction the Scheme of Arrangement ("**Scheme Sanction Hearing**"). Scheme Creditors are entitled (but not obliged) to attend the Scheme Sanction Hearing, through legal counsel, to support or oppose the sanction of the Scheme of Arrangement. The Scheme Sanction Hearing is expected to take place shortly after the Court Convened Meeting at such date and time as the Scheme Administrator or Company may notify to Scheme Creditors.

A Scheme will be legally binding on the Scheme Creditors, including both those voting against the Scheme and those not voting) if:

(a) a majority in number representing 75% in value of the creditors or class of creditors present and voting whether in person (virtually or physically) or by proxy at the Court Convened Meeting agrees to the Scheme of Arrangement;

(b) the BVI Court sanctions the Scheme at the Scheme Sanction Hearing; and

(c) a copy of the BVI Court order sanctioning the Scheme is filed with the BVI Registrar of Companies.

For further information please contact the Scheme Administrator using the contact details below:

Eleanor Fisher acting as joint provisional liquidator of the Company pursuant to the 2021 Insolvency Protocol

Address: EY Cayman Ltd. PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands

Telephone: +1 (345) 814 8256

Email: OlindaStarLtd@ey.com (please reference "Olinda Scheme" in the subject line)

EXHIBIT I

Scheme Administrator's Report

Made on behalf of the Applicant
Sixth Affidavit: E Fisher
EF-6
Sworn: 12 October 2022

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM NO. BVIHC (COM) 2021/0061
IN THE MATTER OF OLINDA STAR LTD (in Provisional Liquidation)

AND

IN THE MATTER OF THE INSOLVENCY ACT, 2003

OLINDA STAR LTD
(in Provisional Liquidation)

Applicant

SIXTH AFFIDAVIT OF ELEANOR FISHER

I, **ELEANOR FISHER**, of EY (Cayman) Ltd. of 62 Forum Lane, Camana Bay, P.O. Box 510, Grand Cayman, KY11106, Cayman Islands, being duly sworn **MAKE OATH** and **SAY** as follows:

Executive Summary

1 I was appointed by the Court to act as chairperson of the meeting of the scheme creditors (the "**Scheme Creditors**") of Olinda Star Ltd ("**Olinda**" or the "**Company**") convened pursuant to the Convening order (as defined below).

2 The meeting of the Scheme Creditors with claims amounting in the aggregate to US$647,371,006[1] had 27 Proxy and Voting Forms filed. No Scheme Creditor attended in person.

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1 Interest inclusive; The aggregate was $625,878,561 exclusive of interest. The total principal amount of the Scheme Creditors of Olinda is US$932,424,126.

3 27 proxies representing claims amounting in the aggregate of US$647,371,006 constituting 100% of the number and 100% by value of all those voting, voted in favour in favour of the Olinda 2022 Scheme (as defined below).

4 The level of participation and approval of the Olinda 2022 Scheme amounted to 67.12% of all Scheme Creditors of Olinda.

5 It was approved and adopted at the meeting of the Scheme Creditors of Olinda.

Introduction

6 Together with Roy Bailey of Ernst & Young Ltd. British Virgin Islands, I am one of the joint provisional liquidators ("**JPLs**") appointed in respect of Olinda Star Ltd (in Provisional Liquidation).

7 I make this Affidavit in support of the Company's application filed on 27 May 2022 (the "**Application**") with relation to a scheme of arrangement (the "**Olinda 2022 Scheme**") in respect of Olinda pursuant to section 179A of the BVI Companies Act, 2004 (as amended) in order to effect a restructuring of Olinda's debt in the BVI.

8 Details of the Olinda 2022 Scheme and reasons behind it were outlined, in detail, in the Fifth and Seventh Affidavit of Michael Pearson filed on 27 May 2022 and 28 June 2022 respectively. As noted above I am, together with Roy Bailey, one of the BVI Court appointed Joint Provisional Liquidators of Olinda. We were appointed in April 2021 in order to monitor, oversee and assist with the financial restructuring of seven BVI Companies (of which Olinda was one) (the "**BVI Companies**").

9 As stated in the Fifth Affidavit of Michael Pearson, the BVI Companies (other than Olinda) were restructured in Brazil, in the form of a Brazilian judicial reorganisation under Brazilian Federal Law (the "**RJ Proceedings**") following an order of the RJ Court on 28 March 2022 approving in full the RJ Plan Amendment. The RJ Proceedings have also been recognised in the United States with respect to certain debtor entities (including the BVI companies but excluding Olinda) pursuant to Chapter 15 of the US Bankruptcy Code, and the RJ Plan Amendment was granted full force and effect in the United States on 3 May 2022. The restructuring of Olinda in the BVI is materially identical, so far as Olinda is concerned, to the terms of the restructuring achieved in the RJ Proceedings.

10 I can confirm that the JPLs had input on the scheme documents on which creditors were invited to vote upon to ensure that they were fair and reasonable. It is for this reason that the JPLs supported the application to call a creditors' meeting so that creditors could vote on the proposed scheme of arrangement.

11 Save as otherwise indicated, the facts and matters deposed to in this Affidavit are derived from my own personal knowledge and from my review of relevant documents and information concerning the Company's operations and its industry as a whole, financial affairs and restructuring initiatives, information obtained from the Company's management team and other professionals and advisors, or my opinion based upon experience and knowledge. Such information is true to the best of my knowledge and belief. Where facts and matters are not within my own knowledge, the source of information is stated and the facts and matters are true to the best of my information and belief.

12 Exhibited to me at the time of swearing this Affidavit and marked "**EF-6**" is a bundle of true copy documents referred to in this Affidavit. Any reference to a page number in this Affidavit is a reference to the corresponding page number in the **exhibit EF-6** (save where otherwise stated).

The Convening Order

13 On 18 July 2022, the Honourable Justice Adrian Jack [Ag] granted an order (the "**Convening Order**") to convene a meeting of the creditors of the Company (the "**Scheme Creditors**") for the purposes of considering and, if thought fit, approving with or without modification, the Olinda 2022 Scheme.

The Creditors Meeting

14 Pursuant to the Convening Order, the meeting of the creditors was scheduled for 13 September 2022, at 13:00 (New York time) at the offices of Olinda's US counsel, White & Case of 1221 6th Avenue, New York, 10020, USA (the "**Scheme Meeting**")[2].

15 I was appointed as chairperson of the Scheme Meeting on behalf of the Company[3].

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2 Paragraph 1 of the Convening Order.

Advertisement of the Scheme Meeting

16 Pursuant to the Convening Order, the Scheme Documents (as defined in the Convening Order) were made available to the Company's creditors as follows:

(a) On 18 August 2022, the Scheme Documents were uploaded by the Company to the Company's website at https://www.theconstellation.com/Investidores.aspx?IdCanal=VLr9yw/yY1n2ugcHl2MH8g==&linguagem=en so that they were available to all Scheme Creditors;[4] and

(b) On 19 August 2022, the Scheme Documents were made available through DTC's Legal Notice System. DTC, which stands for the Depository Trust Company is, through its nominee, Cede & Co., the record holder of the notes, meaning that they are named as holder on the physical note. For U.S. dollar denominated notes, DTC is the clearing system for such notes. Outside of the United States, Euroclear and Clearstream are similar clearing system for notes. DTC has an electronic platform where the ultimate beneficial holders of the notes hold a beneficial interest in the notes through participant banks. Notices and payments under the indenture are sent to DTC, who then disseminates the notice and allocates the payment to the participants.

17 I attach a copy of the upload confirmation which details the date that the Scheme of Arrangement documents were uploaded, and therefore made available on the Constellation Group's website. **EF-6/7-261**

18 Copies of the uploaded confirmations from DTC, which detail the date that the Scheme Documents were made available on DTC's Legal notice System, on 19 August 2022 is at **EF-6/3-4**.

19 The notice of the Scheme Meeting and Scheme Documents were also published in the BVI Gazette on 1 September 2022.

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3 Paragraph 8 of the Convening Order.
4 **EF-6/1-2.**

20 The notice of the Scheme Meeting and Scheme Documents were also forwarded separately to Banco Bradesco S.A. on 18 August 2022 (who, represents approximately 17.47% in value of the creditors of the Company).[5]

Voting procedure at the Scheme Meeting

21 The voting procedure in respect of the Olinda 2022 Scheme allowed for the Scheme Creditors to vote in person or by proxy at the Scheme Meeting. The submission deadline for the Voting and Proxy Forms was 13:00 (New York time) on 12 September 2022. However, in accordance with the Convening Order the Chairperson was provided with a discretion to accept voting and/or proxy forms after this deadline.

22 Any Scheme Creditor on whose behalf a duly completed Voting and Proxy Form was submitted before the deadline (as stated at paragraph 20 above) was still entitled to attend the Scheme Meeting in person.

23 Any Scheme Creditor who wished to be represented in person at the Scheme Meeting (or its proxy) was required to register its attendance at the Scheme Meeting prior to its commencement.

24 Registration commenced at 12 noon on 13 September 2022. A passport was required as proof of personal identity to attend the Scheme Meeting and, in the case of a corporation, evidence of corporate authority (for example, a valid power of attorney and/or board minutes). Each proxy was required to bring to the Scheme Meeting a copy of the Voting and Proxy Form of the Scheme Creditor having been duly completed authorising him or her to act as proxy on behalf of the Scheme Creditor and evidence of personal identity.

25 Before the Scheme Meeting commenced, I, in my capacity as the chairperson of the Scheme Meeting, received 27 of the Voting and Proxy Forms and no Scheme Creditor in person.

Voting at the Scheme Meeting

26 The Scheme Meeting commenced at 13:00 (New York time) on 13 September 2022.

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5 **EF-6/5-6.**

27 The number[6] of Scheme Creditors present at the Scheme meeting and voting in person or by proxy at the Scheme Meeting and the value of their claims were stated in the first column of the following table, and the votes given by such creditors "for" or "against" said resolution were stated in second and third columns of the following table (**Table A**).

Column 1			Column 2		Column 3	
Present and Voting			For		Against	
How present	Number	Value of Claims **[US$]**	Number	Value of Claims **[US$]**	Number	Value of Claims **[US$]**
In person	0	0	0	0	0	0
By proxy	27	647,371,006	27	647,371,006	0	0
Totals	27	647,371,006	27	647,371,006	0	0

28 As can be seen from table A above, the Scheme meeting was attended either in person, or by proxy by 27 proxy holders, who represented claims amounting to an aggregate of US$647,371,006[7] (the "**Proxy Holders**"). The Proxy Holders constituted 100% of the number and 100% of all those voting at the Scheme Meeting. Therefore, as the total aggregate escrow principal position was US$932,424,023, the level of participation and approval of the Olinda 2022 Scheme amounted to 67.12% of all Scheme Creditors.

29 To confirm, whilst there were 27 Voting and Proxy Forms filed, the authorised representative may have filed the proxies for multiple beneficial owners.

30 The Scheme meeting was conducted in a fair manner allowing all Scheme Creditors to be properly constituted. Furthermore, nothing took place at the Scheme Meeting to suggest to me that:

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6 Authorised representatives of Scheme Creditors may have submitted aggregated Voting and Proxy Forms.
7 Interest inclusive.

(a) Scheme Creditors were not fairly represented at the Scheme meeting by those who were present in person or by proxy and voted at the Adjourned Scheme Meeting;

(b) Scheme Creditors present in person or by proxy and voting at the Scheme Meeting did not act in good faith; or

(c) There was any form of coercion or irregularity in respect of the exercise by the Scheme Creditors (acting by their proxies) of their right to vote at the Scheme Meeting.

Conclusion

31 For the reasons described herein, I support the Application. I respectfully ask that the relief granted is that claimed in the Application or in such form as this Honourable Court thinks fit.

SWORN on 12 October 2022)

at Camana Bay, Cayman Islands.)

before me)

Notary Public

Annick J Pasquali, Notary Public in and for the Cayman Islands
Location Manager, EY Cayman Ltd.
62 Forum Lane, Camana Bay, PO Box 501, KY1-1106 Cayman Islands
+1 345 814 9017
annick.pasquali@ky.ey.com
Date 12 Oct 2022 Pages 2
Notary ID number : 19 of 2011
Commission expires on: 31 January 2023

THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM NO. BVIHC (COM) 2021/0061

IN THE MATTER OF OLINDA STAR LTD

AND

IN THE MATTER OF THE INSOLVENCY ACT, 2003

OLINDA STAR LTD
(in Provisional Liquidation)

Applicant

SIXTH AFFIDAVIT OF ELEANOR FISHER

Ogier

Ritter House
Wickham's Cay II
Road Town, Tortola
British Virgin Islands
VG1110
Tel: +1 284 852 7300
Ref: GRC/DMT/RKJ 174287.00015
Legal Practitioners for the Applicant

EXHIBIT J

DTC Notice to Creditors

ALL DEPOSITORIES, NOMINEES, BROKERS, AND OTHERS:
PLEASE FACILITATE THE TRANSMISSION OF THIS NOTICE
TO ALL BENEFICIAL OWNERS

NOTICE OF APPROVAL OF OLINDA SCHEME

to the Holders of
13.5% Senior Secured Notes due 2025 Issued by
Constellation Oil Services Holding S.A. (the "Company")
CUSIP / ISIN: 21038MAP8/ US21038MAP86 /L1965HAF7/ USL1965HAF75

3.00% / 4.00% Cash / PIK Toggle Senior Secured Notes due 2026 Issued by the Company
CUSIP / ISIN: 21038MAM5 / US21038MAM55

0.25% PIK Senior Secured Second Lien Notes due 2050 Issued by the Company
CUSIP / ISIN: 21038MAN3 / US21038MAN39

September 21, 2022

Wilmington Trust, National Association serves as Trustee (the "Trustee") under (i) that certain Indenture, dated as of June 8, 2022 (as amended, modified and supplemented from time to time, the "Senior Notes Indenture"), by and among the Company, as issuer, the guarantors from time to time party thereto, and the Trustee; (ii) that certain Indenture, dated as of June 10, 2022 (as amended, modified and supplemented from time to time, the "First Lien Notes Indenture"), by and among the Company, as issuer, the guarantors from time to time party thereto, and the Trustee; and (iii) that certain Indenture, dated as of June 10, 2022 (as amended, modified and supplemented from time to time, the "Second Lien Notes Indenture" and, together with the Senior Notes Indenture and First Lien Notes Indenture, the "Indentures" and each, an "Indenture"), by and among the Company, as issuer, the guarantors from time to time party thereto, and the Trustee. The Company is communicating with holders of the Notes (the "Holders") pursuant to the applicable Indentures.

On May 27, 2022, Olinda Star Ltd. (In Provisional Liquidation) ("Olinda") filed an application in respect of a scheme of arrangement (the "Scheme") in the Eastern Caribbean Supreme Court in the High Court of Justice of the Virgin Islands, Commercial Division (the "BVI Court") under claim number BVIHC (COM) 0061 of 2021.

On July 18, 2022, the BVI Court entered an order (the "Convening Directions Order") ordering, *inter alia*, that Olinda may convene a meeting (the "Scheme Meeting") of its scheme creditors (which are holders of the escrow position identified by CUSIP Nos. 747ESCAA9 and L78ESCAA5). The Scheme Meeting was held on September 13, 2022 at 1:00 p.m. (New York time) at the offices of White & Case LLP, 1221 6th Avenue, New York, New York 10020. At the Scheme Meeting, 100% of the scheme creditors present or voting by proxy voted to approve the Scheme. A hearing (the "Sanction Hearing") is scheduled to be held on October 19, 2022 before the BVI Court at which Olinda will request that the BVI Court "sanction" (i.e. approve) the Scheme. Any interested person may appear at the Sanction Hearing.

By: Olinda Star Ltd. (In Provisional Liquidation)

EXHIBIT K

Sanction Order

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM No. BVIHC (COM) 2021/0061
IN THE MATTER OF OLINDA STAR LTD. (in Provisional Liquidation)
AND
IN THE MATTER OF THE INSOLVENCY ACT, 2003
AND
IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

OLINDA STAR LTD.
(in Provisional Liquidation)

Applicant

SANCTION ORDER

Before: **The Honourable Justice Adrian Jack [Ag]**

Dated: **19 October 2022**

Entered: 26 **October 2022**

UPON THE APPLICATION OF OLINDA STAR LTD. (the "**Scheme Company**") by Ordinary Application dated 27 May 2022 (the "**Application**")

AND UPON reading the Sixth Affidavit of Eleanor Fisher filed on13 October 2022 (and the exhibit thereto) and the Second Affidavit of Camilo McAllister Rendon filed on 13 October 2022

AND UPON hearing Mr Grant Carroll and Mr Romauld Johnson, Counsel for the Applicant

AND UPON the Court having granted an order dated 18 July 2022, convening the meeting of the creditors of the Scheme Company (the "**Scheme Creditors**") and appointing Eleanor Fisher to act as the Scheme Company's foreign representative in respect of any proceedings under Chapter 15 of the US Bankruptcy Code and any other recognition proceedings

AND UPON noting that the meeting of the Scheme Creditors took place on 13 September 2022 at which the majority in number representing 75% in value of the Scheme Creditors present voted in favour of a scheme of arrangement annexed hereto at Appendix 1 of this Order (the "**Olinda 2022 Scheme**") in respect of the Scheme Company

AND UPON the Court being satisfied that it has jurisdiction in relation to the Olinda 2022 Scheme on the basis that the Scheme Company is a "company" within section 179A of the BVI Business Companies Act 2004

IT IS ORDERED THAT:

1. The Olinda 2022 Scheme as attached and exhibited at Appendix 1 be sanctioned by the Court under section 179A of the BVI Business Companies Act, 2004.

BY THE COURT

Dep. REGISTRAR

APPENDIX 1

THE SCHEME

BVI SCHEME OF ARRANGEMENT

PURSUANT TO
SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

- PROPOSED BY -

OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

- TO THE -

SCHEME CREDITORS

BACKGROUND

Olinda Star Ltd (In Provisional Liquidation) (the "**Company**" or "**Olinda**") is a BVI business company incorporated and existing under the BVI Business Companies Act, 2004 (as amended) (the "**Act**").

The Company is an asset holding company whose primary asset is a drilling rig. It is part of a group of companies (the "**Group**") engaged in a global oil and gas enterprise and is a wholly-owned indirect subsidiary of Constellation Oil Services Holding S.A. (the "**Parent**").

On 29 November 2018, the Parent and certain of its subsidiaries (the "**RJ Debtors**") entered into a plan support agreement with certain of their stakeholders (as amended and restated on 21 February 2019 and as further amended and restated on 28 June 2019, the "**Original Plan Support Agreement**").

Consistent with the Original Plan Support Agreement, on 6 December 2018, the Parent and RJ Debtors elected to commence a centralised restructuring in Brazil through a judicially supervised Brazilian *recuperação judicial* under Brazilian Federal Law No 11.101 of February 9, 2005 (the "**Brazilian Bankruptcy Law**") (the "**RJ**") before the 1st Business Court of the Judicial District of the Capital of the State of Rio de Janerio (the "**Brazilian RJ Court**"). The original plan of reorganisation of the RJ Debtors (the "**Original RJ Plan**") was confirmed by the Brazilian RJ Court on 1 July 2019 and was enforced by the United States Bankruptcy Court for the Southern District of New York (the "**US Bankruptcy Court**") by orders entered on 5 December 2019 and 3 April 2020 in the Chapter 15 proceeding pending before the US Bankruptcy Court under Case No. 18-13952 (MG). The restructuring transactions provided for pursuant to the Original RJ Plan were substantially implemented on 18 December 2019, and Olinda acceded to the restructuring transactions pursuant to the Original RJ Plan by way of a BVI scheme of arrangement, that was implemented on 7 April 2020.

Following implementation of the Original RJ Plan, on 7 April 2021, upon request from the RJ Debtors, the Brazilian RJ Court entered an order extending the supervision period of the Brazilian RJ Proceeding, suspending the obligations under the Original RJ Plan and imposing a stay against actions by creditors to enforce such obligations. Extension of the supervision period was intended to provide the RJ Debtors time to negotiate and present an amendment to the Original RJ Plan without disruptions to their business activities Similarly, following a hearing on April 8, 2021 Ms. Eleanor Fisher and Mr. Roy Bailey were appointed as joint provisional liquidators of the Company (the "**BVI Proceeding**"), to protect the Company and provide support to the Brazilian RJ Proceeding during the extended supervision period and to ultimately ensure the successful implementation of the RJ Plan Amendment (as defined below) in the British Virgin Islands with respect to the Company.

On 24 March 2022, upon the unanimous approval of the voting creditors at the general meeting of creditors, the Original RJ Plan was amended (the "**RJ Plan Amendment**") consistent with the terms and conditions of the plan support agreement, dated 24 March 2022 (the "**PSA**"), as agreed among the RJ Debtors and each of their key stakeholders.

On 28 March 2022, the Brazilian RJ Court confirmed the RJ Plan Amendment (the "**Brazilian Confirmation Order**"), and, on 3 May, 2022, the U.S. Bankruptcy Court

entered an order granting full force and effect to the RJ Plan Amendment and the Brazilian Confirmation Order in the United States.

Pursuant to the terms of the PSA and RJ Plan Amendment further restructuring and recapitalisation transactions have been negotiated between, among others, the RJ Debtors and the Scheme Creditors (as defined below) on the terms and conditions as set out in the PSA, which includes but is not limited to the following documentation:

(a) the RJ Plan Amendment;

(b) a term sheet attached as an exhibit to the RJ Plan Amendment (the "**RJ Plan Amendment Term Sheet**"); and

(c) a commitment agreement attached as an exhibit to the RJ Plan Amendment Term Sheet.

in each case as may be later amended, modified, revised, or supplemented in accordance with Section 12 of the PSA (such transactions as described in the PSA and as contemplated in the other Restructuring Documents (as defined in the PSA), together, the "**Restructuring Transactions**").

As part of the Restructuring Transactions, the Group's capital structure is to be "deleveraged" and new money financing will be provided to the Parent and/or certain of its subsidiaries by certain parties (the "**New Money Lenders**") in return for the issuance, upon the effective date of the RJ Plan Amendment (the "**Plan Effective Date**"), to such New Money Lenders of certain notes described as the "New Priority Lien Notes" in the RJ Plan Amendment Term Sheet. The New Money Lenders will invest new money into the Group's business to better capitalize it for go-forward operations.

By Order of the BVI Court dated 8 April 2021 (the "**JPL Appointment Order**"), Ms. Eleanor Fisher and Mr. Roy Bailey were appointed to the Company as Joint Provisional Liquidators (the "**JPLs**"). The JPL Appointment Order authorised the JPLs to enter into an Insolvency Protocol dated 19 April 2021, which, to the extent permitted by law, governs the relationship between the JPLs and Olinda (the "**2021 Insolvency Protocol**") and which is annexed hereto as Schedule 6.

Although the Company was originally proposed as an RJ Debtor, it was ultimately removed as an RJ Debtor based on a judicial determination that the Brazilian RJ Court lacked jurisdiction to restructure the Company's debt obligations. Therefore, the restructuring of the Company's debts has required a separate BVI scheme of arrangement under Section 179A of the Act in relation to the Company, as was the case in 2020 when the terms of the RJ Plan were implemented separately in relation to the Company by way of scheme of arrangement. Now therefore then, given that the Company is intended to participate in the Restructuring Transactions pursuant to the terms of the PSA and given that the Company still sits outside the RJ Plan as not being an RJ Debtor, it is now proposed that the Company restructure its debt obligations by way of a scheme of arrangement in accordance with Section 179A of the Act on terms that mirror the Restructuring Transactions. The basis and the terms of the restructuring of the debt obligations of the Company to be made pursuant to this Scheme (as defined below) have been set out in the RJ Plan Amendment Term Sheet, a copy of which is attached at Schedule 5.

The filing of the Scheme in the BVI is not in any way intended to prejudice, limit, impair or otherwise affect the RJ Debtors' rights, claims, defences, objections, appeals and remedies, present or future, in relation to the RJ Plan Amendment or to pursue the re-entry of Olinda in the RJ Plan Amendment.

IMPORTANT NOTICE TO SCHEME CREDITORS

This document (the "**Scheme**") sets out the terms of the proposed scheme of arrangement for the Scheme Creditors (as defined below). It is being sent to persons whom the Company believes to be a Scheme Creditor as at the Record Time. If you have assigned, sold, or otherwise transferred, or assign, sell or otherwise transfer, your interests as a Scheme Creditor before the Record Time, you must immediately forward this Scheme and the accompanying documents to the person or persons to whom you have assigned, sold or otherwise transferred, or assign, sell or otherwise transfer, your interests as a Scheme Creditor.

This Scheme is provided in order to and is intended to mirror the terms of the RJ Plan Amendment as set out in the RJ Plan Amendment Term Sheet. A copy of the RJ Plan Amendment is attached to this Scheme at Schedule 4. The RJ Plan Amendment sets out the further background and information on the Group and may contain forward looking-statements. These forward looking statements can be identified by the fact that they do not relate only to historical or current facts. Forward looking statements often use words such as "anticipate", "target", "expect", "estimate", "intend", "plan", "goal", "believe", based on numerous assumptions and assessments at the time of the RJ Plan Amendment by the Issuer, in consultation with professional advisors, on historical trends, current conditions, expected future developments and other factors which such advisors believe appropriate. By their nature, forward looking statements involve risk and uncertainty, and the factors described in the context of such forward looking statements in the Scheme and the RJ Plan Amendment could cause actual results and developments to differ materially from those expressed in or otherwise implied by such forward looking statements.

Should one or more of these risks or uncertainties materialise or should underlying assumptions prove incorrect, actual results may vary materially from those described herein. None of the Issuer or the Company assumes any obligation to update or correct or revise any forward looking statements contained in this Scheme or the RJ Plan Amendment to reflect any change of expectations with respect thereto or any change in event, situation or circumstances on which any such forward looking statement was based on actual results, and each such person expressly disclaims any intention or obligation to take any such action.

WARNING: While this Scheme will be considered by the BVI Court in the British Virgin Islands and the Scheme will not become effective unless sanctioned by the BVI Court, the contents of this Scheme have not been reviewed by any regulatory authority in the British Virgin Islands, in the United States or in any other jurisdiction. Neither the SEC nor any other governmental body has approved or disapproved of the Scheme or determined if this Scheme is truthful or complete. Any representation to the contrary is a criminal offence.

Please note, this Scheme is not intended to be and should not be construed as investment, accounting, financial, legal or tax advice by or on behalf of the

Company, or its directors, officers, agents, attorneys or employees. You are recommended to seek your own independent financial, credit, accounting, legal and/or tax advice immediately from your financial, legal and/or tax advisers regarding the Scheme, the contents of this Scheme, and what action you should take (or refrain from taking).

This Scheme is accompanied by a number of documents, including voting instructions and a proxy form (as set out in the "Voting and Proxy Form" further defined below). It is important that you read this Scheme carefully for information about the Scheme and the overall restructuring of the Group envisioned by the RJ Plan Amendment and RJ Plan Amendment Term Sheet and that you complete and return the proxy form in accordance with the instructions therein.

Scheme Content

Nothing in the Scheme or any other document issued with or appended to it should be relied on for any purpose other than to make a decision with respect to the Scheme. In particular and without limitation, nothing in this Scheme or any other document issued with or appended to it should be relied on in connection with the purchase of any bonds, notes or assets of the Issuer. This Scheme has been prepared in connection with the proposal in relation to a scheme of arrangement under Section 179A of the Act by the Company to the Scheme Creditors.

The information contained in this Scheme has been prepared based upon information available to the Company as at the date of this Scheme. The Company has taken all reasonable steps to ensure that this Scheme contains the information reasonably necessary to enable the Scheme Creditors to make an informed decision about the effect of the Scheme on them.

Nothing contained in this Scheme shall be deemed to be a forecast, projection or estimate of the Issuer's future financial performance except where otherwise specifically stated.

Any summary of the principal provisions of the Scheme is qualified in its entirety by reference to the RJ Plan Amendment itself and the RJ Plan Amendment Term Sheet. Each Scheme Creditor is advised to read and consider carefully the text of the Scheme, the RJ Plan Amendment Term Sheet and the RJ Plan Amendment. In the event of a conflict between the information and terms described in the Scheme and the RJ Plan Amendment or RJ Plan Amendment Term Sheet, the terms of the RJ Plan Amendment and the RJ Plan Amendment Term Sheet shall prevail, as applicable.

Further copies of this Scheme can be obtained by contacting:

Eleanor Fisher, in her capacity as joint provisional liquidator of the Company at EY Cayman Ltd. PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands or by telephone to +1 (345) 814 8256 or by email to OlindaStarLtd@ey.com (please reference “Olinda Scheme” in the subject line).

1. DEFINITIONS

1.1 In this Scheme, unless inconsistent with the subject or context, the following words shall have the following meanings:

2021 Insolvency Protocol	has the meaning set out in the Background;
Act	has the meaning set out in the Background;
Ad Hoc Group	means that certain ad hoc group of Consenting 2024 Noteholders (as defined below) represented by, among others, Milbank LLP and Appleby;
Admitted Liability	means the amount of any debt (including judgment debt) or any other contractual liability (including any interest and principal amounts) agreed between the Company and each Scheme Creditor as being due beneficially to that Scheme Creditor from the Company at the RJ Closing Date, whereas: (i) "debt" or "liability" does not include a debt or liability which would be statute barred on the RJ Closing Date under BVI law or the laws of any other jurisdiction which applies to it; and (ii) for the avoidance of doubt the expression Admitted Liability does not include a Scheme Expense;
Banco Bradesco	means Banco Bradesco S.A., Grand Cayman Branch
Book Entry Interest	means a beneficial interest in a Global Note (as defined in the Existing Notes Indenture) by or through a Participant (as defined in the Existing Notes Indenture);
Bradesco Guarantee and Security	means the guarantees by the Company of (i) the loans and other obligations under the Restructured Bradesco Credit Agreement, and (ii) the obligations under the Bradesco Reimbursement Agreement, which guarantees shall be secured by the New Security in accordance with the priorities provided in the Non-Priority Intercreditor Agreement;
Bradesco Reimbursement Agreement	means the reimbursement agreement to be dated on or about the RJ Closing Date, entered into by and between Banco Bradesco, the Parent and certain guarantors named therein in connection with the issuance of the Evergreen L/C (as defined in the Restructured Bradesco Credit Agreement)

Brazilian RJ Court	has the meaning set out in the Background;
Business Day	means any day other than Saturday, Sunday or a public holiday on which banks are open in the BVI, New York and Brazil for general banking business or such other place where the payments pursuant to the terms of this Scheme are to be received by the Scheme Creditors;
BVI	has the meaning set out in the Background;
BVI Court	means the Eastern Caribbean Supreme Court in the BVI;
Company or **Olinda**	has the meaning set out in the Background;
Consenting 2024 Noteholders	means the holders of Existing Notes that have executed the PSA or a joinder thereto (or any permitted transferee thereof under the PSA);
Court Convened Meeting	means a meeting of the Scheme Creditors of the Company or any other meeting of the Company convened with the leave of the BVI Court in exercise of its powers pursuant to Section 179A of the Act including to consider and, if thought fit, to approve this Scheme;
Director	means the director of the Company, Michael Pearson;
Dispute Resolution Procedure	means the procedure for the resolution of disputes set out in Clause 20 of this Scheme;
Effective Date	means the date on which an office copy of the Sanctioning Order shall be filed with the Registrar of Corporate Affairs in the BVI pursuant to section 179A(4) of the Act;
Existing Bradesco Credit Agreements	means (i) that certain credit agreement dated December 18, 2019 among Constellation Overseas Ltd, as borrower, Constellation Oil Services Holding S.A., as guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto, and Banco Bradesco, as administrative agent (as amended, restated, supplemented or otherwise modified from time to time) and (ii) that certain amended and restated credit agreement dated December 18, 2019 among Constellation Overseas Ltd, as borrower, Constellation Oil Services Holding S.A., as guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto, and Banco Bradesco, as administrative agent (as amended, restated, supplemented or otherwise modified from time to time). Olinda became a party as a guarantor through a joinder agreement dated 7 April 2020 and the definition Existing Bradesco Credit Agreements includes the joinder pursuant to which Olinda became a party;

Existing Notes	means the Parent's (i) 10.00% PIK / Cash Senior Secured Notes due 2024, (ii) 10.00% PIK / Cash Senior Secured Third Lien Notes due 2024 and (iii) 10.00% PIK / Cash Senior Secured Fourth Lien Notes due 2024, in each case issued under the applicable Existing Notes Indenture;
Existing Notes Indentures	means those certain indentures dated December 18, 2019 (as amended, restated, supplemented or otherwise modified), with Wilmington Trust, National Association serving as trustee, paying agent, transfer agent and registrar, in respect of each series of Existing Notes and pursuant to which the Company is a guarantor;
First Lien Notes Indenture	means the indenture to be dated on or about the RJ Closing Date, between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association governing the First Lien Notes;
First Lien Notes	the Parent's 3.00% / 4.00% Cash/PIK Toggle Senior Secured Notes due 2026;
General Security Agreement	means the general security agreement to be dated on or about the RJ Closing Date, between the grantors party thereto and and Wilmington Trust, National Association;
Group	has the meaning set out in the Background;
Intercreditor Agreements	means the Master Intercreditor Agreement and the Non-Priority Intercreditor Agreement;
Issuer	means Constellation Oil Services Holding S.A., a public limited liability company (*société anonyme*) incorporated under the laws of the Grand Duchy of Luxembourg and registered with the Luxembourg Trade and Companies' Register under number B163424;
JPL Appointment Order	has the meaning set out in the Background;
JPLs	has the meaning set out in the Background;
Liability	means any debt or liability to which the Company is subject as at the RJ Closing Date arising as a result of it being a guarantor under the Existing Notes. In relation to the above for any Liability: (i) it is immaterial whether the debt or liability is present or future, whether it is certain or contingent, or whether its amount is fixed or liquidated, or is capable of being ascertained by fixed rules or as a matter of opinion; (ii) "liability" includes (subject to (i) above) a liability to pay money or money's worth, including any liability

under any enactment, any liability for breach of trust, any liability in contract, tort or bailment, and any liability arising out of an obligation to make restitution;

(iii) in determining whether any liability in tort is a liability, the Company is deemed to become subject to that liability by reason of an obligation incurred at the time when the cause of action accrued;

(iv) "debt" or "liability" does not include a debt or liability which would be statute barred at the RJ Closing Date under the BVI law or the laws of any other jurisdiction which applies to it; and

(v) for the avoidance of doubt the expression Liability does not include a Scheme Expense;

Liquidation Event means the making of an order for the winding up of or the passing of any resolution for the winding up of the Company under the Act or the BVI Insolvency Act, 2003 (as the case may be) or the taking in relation to the Company of any analogous step or analogous proceedings in any jurisdiction to which it is subject;

Master Intercreditor Agreement means the intercreditor agreement between the Parent, the subsidiary guarantors from time to time party thereto, Wilmington Trust, National Association and Vistra USA LLC;

New Notes means the notes issued pursuant to the terms of the Priority Lien Notes Indenture, the notes issued pursuant to the First Lien Notes Indenture and the notes issued pursuant to the terms of the Second Lien Notes Indenture;

New Guarantees means the obligations the Company will owe then or in the future under the New Notes when it accedes to the Priority Lien Notes Indenture, the First Lien Notes Indenture and the Second Lien Notes Indenture;

New Security means the security provided pursuant to the documents listed at Schedule 1, which will consist of and be substantially consistent with the terms of the Existing Notes Security;

New Money Lenders means members of the Ad Hoc Group in their capacity as such on account of purchasing the Priority Lien Notes;

Non-Priority Intercreditor Agreement means the intercreditor agreement between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association and Banco Bradesco;

Noteholder	means a person with a Book Entry Interest in each series of the Existing Notes at the Record Time;
Notes Registered Holder Nominee	means Cede & Co., as nominee for the Notes Registered Holder;
Notes Registered Holder or **DTC**	means the Depository Trust Company;
Order	means any order made by the BVI Court or any other court in any other relevant jurisdiction, including an order to stay any Proceedings;
Parent	has the meaning set out in the Recitals;
Post	means airmail or a generally recognised commercial courier service;
Priority Lien Notes Indenture	means the indenture to be dated on or about the RJ Closing Date, between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association governing the Priority Lien Notes;
Priority Lien Notes	Means the Parent's 13.5% Senior Secured Notes due 2025;
Proceedings	means any form of proceedings in any jurisdiction or forum, including without limitation, any demand, legal proceedings, arbitration, alternative dispute resolution, adjudication, mediation, seizure, distraint, forfeiture, re-entry, execution or enforcement of judgment or any step taken for the purpose of creating or enforcing a lien;
Record Time	means 10:00 (New York time) on 13 September 2022.
Restructured Bradesco Credit Agreement	means the Amended and Restated Credit Agreement, to be dated on or about the RJ Closing Date, among Constellation Oil Services Holding S.A., as borrower, Constellation Overseas Ltd, as guarantor, the other guarantors from time to time party thereto, the lenders from time to time party thereto and Banco Bradesco, as administrative agent, as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any one or more agreements or indentures extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or indenture or indentures or any successor or replacement agreement or agreements

or indenture or indentures or altering the maturity thereof.

RJ	has the meaning set out in the Background;
RJ Closing Date	means the date whereby the Restructuring Transactions will have been implemented pursuant to the terms of the PSA and the RJ Plan Amendment;
RJ Debtors	has the meaning set out in the Background;
RJ Plan Amendment	has the meaning set out in the Background and is as attached at Schedule 4 to this Scheme;
RJ Plan Amendment **Term Sheet**	has the meaning set out in the Background and is attached to Schedule 5 of this Scheme;
Sanctioning Order	has the meaning set out in Clause 3.1(b);
Scheme	means this scheme of arrangement together with any modification of or addition to it which is approved or imposed by the BVI Court or the Scheme Creditors;
Scheme Administrator	means Eleanor Fisher in her capacity as JPL;
Scheme Creditor	means: (i) the Trustee; (ii) Banco Bradesco; (iii) the Notes Registered Holder, as the registered holder of the Global Notes (as defined in the Existing Indentures) as of the Record Time; (iv) the Notes Registered Holder Nominee, as nominee for such Notes Registered Holder; and (v) the Noteholders, as contingent creditors and/or in respect of all and any claims or rights they or each have pursuant to the Existing Notes Indentures;
Scheme Implementation Documents	means the New Security (and any accession instrument thereto), the Priority Notes Indenture (and any accession instrument thereto to be executed by the Company), the First Lien Notes Indenture (and any accession instrument thereto to be executed by the Company), the Second Lien Notes Indenture (and any accession instrument thereto), the Restructured Bradesco Credit Agreement (and any accession instrument thereto), the Bradesco Reimbursement Agreement (and any accession instrument thereto), those other documents listed at

	Schedule 2 (copies or draft copies of which will be appended to notice convening the Court Convened Meeting) and any other agreement or instrument contemplated or permitted by, or ancillary to, any of the foregoing;
Scheme Meeting	means any meeting of the Scheme Creditors (other than a Court Convened Meeting) convened in accordance with the terms of the Scheme;
Scheme Terms	means the terms upon which the Admitted Liabilities will be satisfied as set out in this Scheme;
Second Lien Notes Indenture	means the indenture to be dated on or about the RJ Closing Date, between the Parent, the subsidiary guarantors from time to time party thereto, and Wilmington Trust, National Association governing the Second Lien Notes;
Second Lien Notes	means the Parent's 0.25% PIK Senior Second Lien Notes due 2050;
Trustee	means Wilmington Trust, National Association;
US Dollars or **US$** or **USD**	means the lawful currency of the United States of America; and
Voting and Proxy Form	means the documents entitled "Voting and Proxy Form " as set out in Schedule 3 of this Scheme.

1.2 In this Scheme (and unless the context otherwise requires):

(a) references to clauses are references to clauses of this Scheme and references to pages and Schedules are references to pages and Schedules of this Scheme;

(b) references to a person shall be construed as including references to an individual, firm, company, corporation, unincorporated body of persons or any state or agency thereof;

(c) references to the date of a document, form, notice or report mean the date shown on such document, form, notice or report as its date;

(d) the singular includes the plural, the masculine, the feminine and vice versa;

(e) headings are given for ease of reference only and shall not affect the interpretation of this Scheme; and

(f) references to any statute or statutory provision include the same as amended, re-enacted or consolidated.

2. RELEASE OF EXISTING NOTES AND ISSUANCE OF THE NEW GUARANTEE OF NEW NOTES

2.1 On the Effective Date:

(a) the Company will be released from the Existing Notes Guarantee and all other obligations under the Existing Notes Indenture and the Existing Notes will be terminated;

(b) the Company will accede to the Priority Notes Indenture, the First Lien Notes Indenture and the Second Lien Notes Indenture in accordance with the terms set out therein and become a guarantor under the New Notes pursuant to the New Notes Guarantee. The New Notes Guarantee will be secured by the New Notes Security in accordance with the priorities provided in the Intercreditor Agreements;

(c) all of the security, liens and pledges granted by the Company over the assets and shares of shares in the Company in relation to the Existing Notes and Existing Bradesco Credit Agreements will be released by the Scheme Creditors and the New Security will be granted over the assets and shares of the Company in accordance with the New Notes, the Restructured Bradesco Credit Agreement and the Non-Priority Intercreditor Agreement; and

(d) the Company will guarantee the obligations under the Restructured Bradesco Credit Agreement and the Bradesco Reimbursement Agreement, which guarantees shall be secured by the Bradesco Guarantee and Security in accordance with the priorities provided in the Non-Priority Intercreditor Agreement.

2.2 Following the completion of the matters set out in Clauses 2.1, all of the Scheme Creditors will remain creditors of the Company.

2.3 The matters set out in Clause 2.1 will be implemented by, *inter alia*, the execution and carrying out of the Scheme Implementation Documents, and from the Effective Date and notwithstanding any term of any relevant document, the Company and each Scheme Creditor shall be obliged to enter into and execute each Scheme Implementation Document (and those other documents referred to at Clauses 2.4(b)(ii) to (iii) below) to which it is a party at the Effective Date, which such documents shall be in a form acceptable to the Scheme Creditors, and furthermore each Scheme Creditor hereby irrevocably authorises, appoints and instructs:

(a) the Company to enter into the Scheme Implementation Documents, and any other documents referred to at clauses 2.4(b)(ii) to (iii), to which the Company is a party; and

(b) in the event of any delay in execution by the Scheme Creditor, the Scheme Administrator as its true and lawful agent and attorney (and as agent and attorney of any person to whom a Scheme Creditor has assigned or transferred any claim or right) to, for and on behalf of each Scheme Creditor:

(i) enter into, execute and deliver (whether as a deed or otherwise) any of the Scheme Implementation Documents to which is it expressed to be a party;

(ii) enter into, execute and deliver (whether as a deed or otherwise) for and on behalf of each Scheme Creditor, any document, notice or instruction as may be necessary or appropriate to give effect to the instruction to any person in respect of the entry into, implementation or carrying out of the Scheme Implementation Documents; and

(iii) enter into, execute and deliver (whether as a deed or otherwise) any other document and give any other notice, confirmation, consent, order, instruction or direction as may be reasonably necessary or appropriate in the discretion of the Company (acting reasonably) to release and/or otherwise give effect to the Scheme and/or the Scheme Implementation Documents, provided in each case that any such document (i) is consistent with the RJ Plan Amendment Term Sheet and the RJ Plan Amendment and (ii) would not materially, adversely or disproportionately affect the rights of any Scheme Creditor in any manner that is not otherwise contemplated by the Scheme, the Scheme Implementation Documents, the RJ Plan Amendment Term Sheet or the RL Plan Amendment,

provided that the documents referred to above will only become effective in accordance with their respective terms, whereupon they shall be binding on all Scheme Creditors and each of the other parties thereto.

3. EFFECTIVE DATE AND CONDITIONALITY

3.1 This Scheme shall come into operation on the Effective Date if:

(a) it is approved by the Scheme Creditors in accordance with Clause 3.2;

(b) it has been sanctioned by an order of the BVI Court (the "**Sanctioning Order**"); and

(c) the Sanctioning Order is filed with the Registrar of Corporate Affairs in the BVI pursuant to Section 179A(4) of the Act.

3.2 This Scheme shall be approved by the Scheme Creditors if it is approved at a Court Convened Meeting by a majority in number representing 75% in value of the Scheme Creditors or class of the Scheme Creditors present and voting either in person or by proxy, as prescribed by Section 179A(3) of the Act.

4. PURPOSE AND APPLICATION OF THIS SCHEME

4.1 The purpose of this Scheme is to restructure the debts of the Company so that they mirror the debt restructuring of the RJ Debtors in the RJ Plan Amendment in an efficient and timely manner in order to secure a better return for the Company's creditors than they would otherwise receive in the liquidation of the Company.

4.2 This Scheme shall only apply to the Admitted Liabilities.

5. ENFORCEMENT OF LIABILITIES

5.1 Each Scheme Creditor is deemed to acknowledge that the process of establishing the Scheme Creditors' debt restructuring by:

(a) the termination of the Existing Notes and the obligations thereunder;

(b) the accession by the Company to the New Notes and the provision by the Company of the New Notes Guarantee and the New Security; and

(c) the guarantee of the obligations under the Restructured Bradesco Credit Agreement in exchange for the guarantee of the obligations under the Existing Bradesco Credit Agreements and the obligations under the Bradesco

Reimbursement Agreement, which guarantee shall be secured by the Bradesco Guarantee and Security,

pursuant to the terms of this Scheme, and consequently, the Admitted Liabilities, is fair and that, if it is approved by the requisite majorities of the Scheme Creditors and sanctioned by the BVI Court, the Company and all of the Scheme Creditors shall be bound by it.

5.2 Save as expressly provided for in this Scheme, no Scheme Creditor shall be entitled to take or continue any step or do or continue any act against or in respect of the Existing Notes, the New Notes, the Company or the Scheme Administrator after the Effective Date, for the purpose of obtaining payment, or establishing the quantum of any Liability from the Existing Notes or the Company.

6. SCHEME EXPENSES

6.1 The Company and each of the Scheme Creditors shall take all such steps as may be necessary to effect the terms set out in Clause 2 on the Effective Date.

6.2 All costs, charges and expenses of and incidental to the preparation, administration and implementation of this Scheme and the performance by the Scheme Administrator of their functions shall be Scheme Expenses and shall be payable by the Company, including, without prejudice to the generality of the foregoing:

(a) the cost of remunerating the Scheme Administrator in connection with the exercise and performance of the powers, duties and functions of the Scheme Administrator and JPL under this Scheme on a full indemnity basis;

(b) all liabilities, expenses, costs and disbursements incurred by the Company and the Scheme Administrator in the course of the exercise or performance of their respective powers, duties and functions under, or for the purpose of implementing, this Scheme on a full indemnity basis;

(c) all costs, charges and expenses incurred by the Company and the Scheme Administrator in connection with the negotiation and preparation of this Scheme (including, but not limited to, all legal, accounting, financial and other consultants' fees, expenses and other costs) on a full indemnity basis;

(d) any court and filing fees incurred in relation to this Scheme on a full indemnity basis;

(e) the costs of holding any Court Convened Meeting and any meetings of shareholders or directors of the Company convened to consider this Scheme and the costs of obtaining the sanction of the BVI Court and filing of the Sanctioning Order with the Registrar of Corporate Affairs in the British Virgin Islands on a full indemnity basis;

(f) the costs incurred in employing agents and professional advisers to advise or assist the Scheme Administrator and their staff in connection with the exercise and performance of their powers, duties and functions as Scheme Administrator on a full indemnity basis;

(g) the costs of summoning meetings of the Scheme Creditors in accordance with this Scheme or the Act and any costs of preparing advertising and sending out

any notices or reports to be given by or to the Scheme Creditors or any other person under this Scheme or the Act and, at the discretion of the Scheme Administrator, on a case by case basis; and

(h) all taxes, duties, administrative, licence, listing, audit, filing, registration, directors' and other fees, costs and expenses incurred by this Scheme Administrator on behalf of the Company in connection with this Scheme on a full indemnity basis, with the Company providing the indemnity.

6.3 All costs, fees, charges, filing fees, expenses or any other disbursements of and incidental to the joint provisional liquidation of Olinda by either the JPLs or their advisors (the "**JPL Costs**") shall be irrevocably ratified and approved by Olinda and the creditors upon an affirmative vote on this Scheme of Arrangement.

6.4 In the event that there is any dispute in relation to the Scheme Expenses or JPL Costs, they will be remitted to the BVI Court for assessment.

7. RECOGNITION IN US CHAPTER 15 PROCEEDINGS

7.1 Following the Effective Date, the Scheme Administrator will, as Foreign Representative for the purposes of the US Bankruptcy Code, apply to the US Bankruptcy Court to have the BVI Proceeding and the Scheme recognized pursuant to chapter 15 of title 11 of the US Bankruptcy Code and seek the entry of an order granting full force and effect to the Scheme and Sanctioning Order within the territorial jurisdiction of the United States.

7.2 The Scheme Creditors agree not to oppose any relief sought in the US pursuant to Clause 7.1.

8. SCHEME CREDITORS' AND THE COMPANY OBLIGATIONS

8.1 Each Scheme Creditor is to follow the debt restructuring in the terms of the RJ Plan Amendment and as if the Company was a party to the RJ Plan Amendment in each case in the manner set out in the RJ Plan Amendment Term Sheet.

8.2 The Company is to complete its debt restructuring as set out in the Scheme in the manner set out in the RJ Plan Amendment Term Sheet.

9. THE SCHEME ADMINISTRATOR

9.1 Eleanor Fisher in her capacity as a court appointed joint provisional liquidator pursuant to the 2021 Insolvency Protocol (a copy of which is attached at Schedule 6) shall act as Scheme Administrator in order to progress the terms of the Scheme.

9.2 The Scheme Administrator shall, subject to the provisions of this Scheme, have all the powers necessary to implement this Scheme and the Scheme Terms, and do all such other things as may be required for the proper implementation and management of this Scheme from time to time.

9.3 Nothing in this Scheme shall render the Scheme Administrator liable for any Liabilities or obligations of the Company.

9.4 The Scheme Administrator or any of them may resign their appointment at any time if they terminate their appointment as JPL with the BVI Court.

9.5 The office of a Scheme Administrator shall be vacated if the Scheme Administrator:

(a) dies;

(b) is convicted of an indictable offence;

(c) resigns office by notice in accordance with Clause 9.4;

(d) becomes bankrupt;

(e) becomes disqualified from acting as JPL; or

(f) is admitted to hospital because of mental health or becomes the subject of an order made by any court having jurisdiction whether in BVI or elsewhere in matters concerning his mental health.

9.6 If the office of the Scheme Administrator is vacated in accordance with Clause 9.5 above the Company shall be entitled to appoint replacement Scheme Administrator provided that any such new appointment is consented to in writing by a 75% majority in value of Scheme Creditors.

10. SPECIFIC POWERS AND OBLIGATIONS OF THE SCHEME ADMINISTRATOR

10.1 In carrying out their duties and functions under this Scheme, the Scheme Administrator shall (without prejudice to the full terms of this Scheme) be empowered:

(a) to have full access to all such information as they may from time to time require in relation to the affairs of the Company or the operation of this Scheme and to all books, papers, documents and other information contained or represented in any format whatsoever in the possession or under the control of the Company. Such information, books, papers and documents may be disclosed by the Scheme Administrator to the Scheme Creditors if they consider such disclosure would assist the implementation of this Scheme in accordance with its terms;

(b) to employ and remunerate, as a Scheme Expense, accountants, actuaries, lawyers and other professional advisers or agents in connection with this Scheme;

(c) to petition the courts in any jurisdiction to obtain recognition or enforcement of this Scheme or to bring, commence or defend any Proceedings in the name of and, insofar as is permitted by law, on behalf of the Company in any matter affecting the Company in any jurisdiction, or to prevent the continuation or commencement of any Proceedings against the Company or its Property;

(d) to apply to the BVI Court for directions in relation to any particular matter arising under, or in the course of the operation of this Scheme;

(e) to do all acts and to execute in the name and, insofar as permitted by law, on behalf of the Company any deed, transfer, instrument, cheque, bill of exchange, receipt or other document which may be necessary for or incidental to the full and proper implementation of this Scheme;

(f) to procure the presentation of a petition for the liquidation of the Company or to request the directors and shareholders of the Company to resolve to liquidate the Company;

(g) to propose, where they consider it to be in the interests of the Company in relation to a defined class of creditor or member, a further scheme of arrangement under Section 179A of the Act. In the event such a scheme of arrangement as is referred to in this clause is proposed, the Scheme Administrator shall, subject to the jurisdiction of the BVI Court, only be required to convene a meeting or meetings under Section 179A of the Act of those creditors of the Company to whom it is proposed such a scheme should apply. The Scheme Administrator may propose such a scheme of arrangement in respect of any class of creditor or member on any number of occasions;

(h) to do all other things incidental to the exercise of the foregoing powers, including the exercise of any powers analogous to those which the Scheme Administrator would have had under Section 179A of the Act, in order to effect the restructuring of the Company's debt in accordance with the terms of the RJ Plan Amendment; and

(i) to exercise any other powers necessary for or incidental to the full and proper implementation of this Scheme.

11. COURT CONVENED MEETING AND SCHEME CREDITORS VOTING RIGHTS

11.1 The Court Convened Meeting will be held at the offices of White & Case LLP at 1221 Avenue of the Americas, New York, New York 10020-1095 or such other place as the BVI Court may require or allow on such date and at such time as the BVI Court shall determine for the purpose of voting to approve this Scheme.

11.2 An option to attend the Court Convened Meeting virtually will be provided.

11.3 The Court Convened Meeting shall be chaired by the Scheme Administrator as appointed by the BVI Court.

11.4 Without prejudice to Clause 11.6 every Scheme Creditor shall be entitled to vote on the matters in respect of this Scheme by attending and voting at the Court Convened Meeting in person.

11.5 Subject to Clause 11.7 every Scheme Creditor shall have one (1) vote for every US Dollar of its Admitted Liabilities.

11.6 Every Scheme Creditor entitled to vote shall have the right to appoint any person as its proxy to attend (either physically or virtually) a Court Convened Meeting and vote thereat in its place. The Voting and Proxy Form set out in Schedule 3 must be completed and returned to the Scheme Administrator as soon as possible and in any event at the latest by 10:00 am (New York Time) on the Business Day before the day of the Court Convened Meeting.

11.7 While the Trustee is not a Scheme Creditor for the purpose of the Scheme as Admitted Liabilities are limited to beneficial entitlements to payment, the Trustee shall be considered not to have any votes at the Court Convened Meeting.

11.8 Each Scheme Creditor (if attending in person or by a duly authorised representative) or its proxy will be required to register its attendance at the Court Convened Meeting prior to its commencement. Proof of personal identity will be required to attend the Court Convened Meeting (for example, a passport or driving licence with photo). If appropriate personal identification is not produced, then that person may not be permitted to attend

and vote at the Scheme Meeting – whether or not such a person is permitted to attend at the Scheme Meeting shall be at the discretion of the Scheme Administrator.

11.9 Before the Scheme can become effective and binding on the Company and the Scheme Creditors, the BVI Court must sanction the Scheme. The sanction hearing at the BVI Court will take place if the requisite statutory majorities of the relevant Scheme Creditors have approved the Scheme at the Court Convened Meeting.

11.10 Scheme Creditors are entitled to appear at the sanction hearing at the BVI Court. The Scheme Administrator and the Company will notify the Scheme Creditors of the date of any sanction hearing. Scheme Creditors who wish to ask any questions in advance of the Court Convened Meeting or sanction hearing of the BVI Court are encouraged to contact the Scheme Administrator.

11.11 A Scheme Creditor on whose behalf a duly completed Voting and Proxy Form is submitted before the Court Convened Meeting may still attend the Court Convened Meeting in person. If a Scheme Creditor intends to attend the Court Convened Meeting, it may amend its voting instructions provided in a previously submitted Voting and Proxy Form by submitting a new validly completed Voting and Proxy Forms to the Chairman of the Court Convened Meeting before the start of the Court Convened Meeting.

11.12 Additionally Scheme Creditors will have the opportunity at the Court Convened Meeting to raise with the Scheme Administrator any questions, objections or issues they may have in relation to the Scheme.

12. NOTICE OF THE COURT CONVENED MEETING

12.1 At least 14 days' notice of the Court Convened Meeting shall be sent to the Scheme Creditors in the form set out at Schedule 7 or as otherwise directed by the BVI Court, together with an appropriate voting and proxy form. The notice shall be sent to each Scheme Creditor at its last known address (if any) and e-mail address (if any) or such other address and e-mail address as he may have given to the Company (or the Scheme Administrator) for the service of such notice upon him, or in the case of the Noteholders and for so long as the Existing 2024 Notes are held in global form on behalf of DTC or an Escrow Position, notice may be delivered to and via DTC. Every such notice shall be sent by Post and e-mail (if any) or via DTC.

12.2 The accidental omission to send any such notice to, or the non-receipt of a notice by, any Scheme Creditor entitled to receive the same shall not invalidate the proceedings in any meeting. The Scheme Administrator shall, insofar as they are able, cause to be published an advertisement of each Court Convened Meeting in such newspaper(s) and publication(s) as the BVI Court may direct. The Scheme Administrator may also cause to be published in such other place or places as they deem fit notices or advertisements of the Court Convened Meeting, such as in publications in New York, Brazil, the BVI and India.

13. TERMINATION OF THE APPOINTMENT OF SCHEME ADMINISTRATOR

13.1 The appointment of the Scheme Administrator and all powers and obligations associated therewith will automatically terminate upon the latest of either: (i) the accession by the Company to the New Notes; (ii) the provision by the Company of the New Security; (iii) the termination of the Existing Notes and the security and obligations granted thereunder; (iv) the accession by the Company to the Restructured Bradesco Credit Agreement and the Bradesco Reimbursement Agreement and the granting by the

Company of the Bradesco Guarantee and Security ; or (v) the entry of an order by the US Bankruptcy Court as part of a Chapter 15 proceeding granting full force and effect to the Sanctioning Order and Scheme.

13.2 Following the termination of the appointment of the Scheme Administrator pursuant to Clause 13.1, the JPLs shall file for termination of their appointment as JPLs of the Company.

14. EXCLUSIONS AND ACKNOWLEDGEMENTS BY SCHEME CREDITORS

14.1 The Company is expressly authorised to takes the steps necessary to effect the actions set out in Clause 2 of the Scheme.

14.2 Each Scheme Creditor shall have no recourse against the Scheme Administrator or the Scheme Administrator' respective advisers for the termination of the Existing Notes or the release of any security or obligations thereunder for the purposes of this Scheme or have any other related claim whatsoever with regard to the Admitted Liabilities for any reason.

14.3 The Scheme Administrator and their respective advisers (legal, financial or otherwise) shall not incur any personal liability of any kind under, or by virtue of this Scheme, or in relation to any related matter or claim, whether in contract, tort or restitution or by reference to any other remedy or right, in any jurisdiction or forum, save for in respect of fraud committed by them, gross negligence or misconduct.

15. VALIDITY OF ACTS OF AND RESPONSIBILITY OF THE SCHEME ADMINISTRATOR

15.1 Subject to any applicable provision of the Act (or any other applicable BVI law or enactment):

(a) no Scheme Creditor shall be entitled to challenge the validity of any act done or omitted to be done in good faith by the Scheme Administrator in pursuance of her functions or duties under this Scheme, or the exercise or non-exercise by the Scheme Administrator in good faith of any power or discretion conferred upon them for the purposes of this Scheme, and the Scheme Administrator shall not be liable for any loss whatsoever and howsoever arising out of any such act or omission, exercise or non-exercise of any power or discretion, unless, such loss is attributable to their or any of their own negligence, breach of duty or trust, fraud or dishonesty;

(b) any liability incurred, in respect of the matters referred to in Clause 15.1(a) above, by the Scheme Administrator as a result of their or any of their negligence, breach of duty or trust, fraud or dishonesty shall be limited to the value of the net assets of the Company at the Effective Date.

16. INDEMNITIES AND VALIDATION

16.1 The Company shall indemnify the Scheme Administrator against any liability by way of legal and other advisers' costs incurred by them in defending any proceedings in relation to the preparation, negotiation and implementation of this Scheme, whether civil or criminal, in which judgment is given in their favour, or which is discontinued before judgment is given, or in which they are acquitted, or in connection with any application in which relief is granted to them by the BVI Court from liability for negligence, default, breach of duty or breach of trust.

16.2 Notwithstanding a subsequent discovery that there was some defect in the procedure for calling or voting at any meetings, or the passing of resolutions, all acts done by the Scheme Administrator shall be valid as if every such procedure had been correctly adhered to, provided that, in the case of any meeting in respect of which such a defect is discovered, that meeting was quorate.

17. MODIFICATION OF THIS SCHEME

17.1 The BVI Court may order any modification of or addition to this Scheme or to any items or conditions which the BVI Court may think fit to approve or impose at any hearing of the BVI Court or give directions in respect of this Scheme, whether in accordance with Section 179A of the Act or otherwise.

17.2 It is acknowledged by the Scheme Creditors, the Company and the Scheme Administrator that there can be no modification to this Scheme after the BVI Court has sanctioned this Scheme without further order of the BVI Court.

18. EFFECT OF A LIQUIDATION EVENT

18.1 The occurrence of a Liquidation Event after the Effective Date during the implementation of the Scheme shall have no effect on the operation of this Scheme, which shall continue in full force and effect.

18.2 For the avoidance of doubt, notwithstanding the occurrence of any Liquidation Event, the continuation or exercise by the Scheme Administrator of their powers in accordance with this Scheme shall not be affected, save insofar as may be a necessary consequence by operation of law, notwithstanding any loss of agency in respect of the Company which may result from such Liquidation Event.

18.3 In the event of any conflict between the provisions of this Scheme, the provisions of the Act or the BVI Insolvency Act or the BVI Insolvency Rules or any analogous statutes or rules which may apply to the Company following a Liquidation Event, for Scheme purposes only, the provisions of this Scheme shall prevail.

18.4 Where a Liquidation Event has already occurred at, or occurs after, the implementation of the Scheme, the Scheme Creditors shall be entitled to prove in the liquidation or analogous proceedings for the full amount of their Admitted Liabilities.

19. SCHEME CREDITORS TO CO-OPERATE

19.1 The Scheme Creditors shall co-operate with and render in timely manner such assistance to the Scheme Administrator as the Scheme Administrator may reasonably require, including without limitation, the provision of information and documents in connection with the Admitted Liabilities and the operation and implementation of this Scheme.

20. DISPUTE RESOLUTION PROCEDURE

20.1 The Scheme Administrator shall refer any dispute to the BVI Court for directions and/or an order, setting out details of the matter to be resolved and enclosing evidence in support of it, including copies of such of the Company's records as shall be relevant together with any supporting documents including those provided by the relevant Scheme Creditor(s).

20.2 Any order or direction of the BVI Court shall be conclusive and binding on the Company, the Scheme Administrator and the relevant Scheme Creditor(s).

21. DISPATCH OF NOTICES AND OTHER WRITTEN COMMUNICATIONS AND DOCUMENTS

21.1 Any notice or other written communication to be given under or in relation to the Scheme shall be given in writing and shall be deemed to have been duly given if it is delivered by hand, is posted on the Issuer's website or (so long as the Existing Notes are held in global form on behalf of DTC or an Escrow Position) delivered to DTC (in the case of the Noteholders), or is sent by email, fax or Post to the relevant person at its last known address (if any) and e-mail address (if any) or such other address and e-mail address as he may have given to the Company (or the Scheme Administrator), provided that in the case of notices and other written communications and documents to be sent to:

(a) the Scheme Administrator and/or the Company, such shall be sent to or c/o Olinda Star Ltd (In Provisional Liquidation) c/o EY Cayman Ltd., PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands;

(b) the Notes Registered Holder, shall be sent to to conversionsandwarrantsannouncements@dtcc.com; amendoza-elix@dtcc.com; skaylor@dtcc.com;

(c) the Notes Registered Holder Nominees, shall be sent to conversionsandwarrantsannouncements@dtcc.com; amendoza-elix@dtcc.com; skaylor@dtcc.com;

(d) Banco Bradesco, shall be sent to Banco Bradesco S.A., Grand Cayman Branch, 75 Fort Street, Appleby Tower, 5th floor Georgetown, KY1-1109, Grand Cayman, Cayman Islands; and

(e) the Trustee, such shall be sent to Wilmington Trust, National Association, 50 South Sixth Street, Suite 1290, Minneapolis, MN 55402, USA,

or in each case such other address(es) as shall be notified to the Scheme Creditors.

21.2 Notices and any other written communications or documents sent by Post to the Scheme Creditors pursuant to this Scheme shall be deemed, in the absence of evidence to the contrary, to have been received by the relevant Scheme Creditor on the tenth (10th) business day after dispatch and references to the receipt by a Scheme Creditor of any such notice, communication or document shall be construed accordingly. Notices or other communications sent by facsimile or email shall conclusively be deemed to have been received on the first business day following the day they were sent (subject to production of proof of transmission of all pages). References to a Scheme Creditor's address in this clause are to that Scheme Creditor's address as established in accordance with Clause 21.3, and references to "business days" in this clause are to a business day in the country in which such address is located. Notice periods laid down by this Scheme are to be calculated by reference to clear days from the date on which the notice concerned was sent by Post.

21.3 A sworn statement by the Scheme Administrator or a member of their staff that an envelope containing a notice was sent by Post shall be conclusive evidence that the notice was given.

22. EXCLUSIONS BY SCHEME CREDITORS

22.1 Each Scheme Creditor shall have no recourse to the Company's assets and debts other than in accordance with the terms of this Scheme or the New Notes.

22.2 The Scheme Administrator and their respective advisers (legal, financial or otherwise) shall not incur any personal liability of any kind under, or by virtue of the restructuring of the Company's debts, this Scheme, or in relation to any related matter or claim, whether in contract, tort or restitution or by reference to any other remedy or right, in any jurisdiction or forum, save for in respect of fraud committed by them.

23. EXTENSION AND CALCULATION OF DEADLINES

23.1 Save where expressly provided to the contrary, deadlines laid down by this Scheme shall be calculated by reference to calendar days and not Business Days, but in the event that such a deadline expires on a day which is not a Business Day, such deadline shall be deemed not to expire until close of business on the Business Day next following.

24. GOVERNING LAW

24.1 This Scheme shall be governed by, and construed in accordance with, the laws of the BVI and the BVI Court shall (save as provided in Clause 24.2) have exclusive jurisdiction to hear and determine any dispute or Proceedings arising out of the construction of this Scheme, or the implementation of this Scheme, and the Scheme Creditors shall be subject to the exclusive jurisdiction of the BVI Court for such purposes.

24.2 Notwithstanding the provisions of Clause 24.1, the Scheme Administrator retains the right to bring Proceedings, whether in the name of the Company or otherwise, in the courts of any other country having jurisdiction under its own laws to hear such Proceedings.

SCHEDULE 1

NEW SECURITY

1. Deposit Account Control Agreement
2. Olinda Star Mortgage
3. Olinda Star Assignment of Insurance Receivables
4. Priority Lien Olinda Star Share Charge Agreement
5. First Lien Olinda Star Share Charge Agreement
6. Second Lien Olinda Star Share Charge Agreement

SCHEDULE 2

SCHEME IMPLEMENTATION DOCUMENTS

1. The Priority Notes Indenture (and any accession instrument thereto to be executed by the Company)

2. The First Lien Notes Indenture (and any accession instrument thereto to be executed by the Company)

3. The Second Lien Notes Indenture (and any accession instrument thereto)

4. Restructured Bradesco Credit Agreement (and any accession instrument thereto)

4. Bradesco Reimbursement Agreement (and any accession instrument thereto)

6. Intercreditor Agreements (and any accession instrument thereto)

7. General Security Agreement

8. Bradesco Guarantee and Security agreement

9. New Security

10. Deeds of release for existing security granted by Olinda or over Olinda

SCHEDULE 3

VOTING AND PROXY FORM

OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

(the "Company")

I/We,_____

having our registered office/address at/of

_____

being a Scheme Creditor of the above named Company, hereby appoint:

the Chairman or:

_____

as my/our proxy to vote for me/us and on my/our behalf on any resolution proposed (including, but not limited to, the Resolution set out below) at the Court Convened Meeting to be held on 13 September 2022 at the offices of White & Case LLP at 1221 Avenue of the Americas, New York, New York 10020-1095, commencing at 13:00 (New York time), or at any adjournment thereof.

I/We hereby certificate that (i) I/We held the indebtedness of the Company as indicated on Annex A hereto, (ii) have not and will not prior to the Court Convened Meeting trade or otherwise dispose of such indebtedness, and (iii) the proxy is hereby authorized and directed to vote or abstain, as indicated below, with respect to the full amount of indebtedness indicated on Annex A. [***NOTE: PLEASE COMPLETE ANNEX A AND SUBMIT WITH THIS PROXY***]

Please indicate with an "X" in the space below how you wish your votes to be cast in respect of the Resolutions. If no specific direction as to voting is given, the proxy will vote or abstain from voting at his/her discretion.

RESOLUTION:	**FOR**	**AGAINST**	**ABSTAIN**
THAT the Scheme of Arrangement proposed by the Company, particulars of which are set out in the attached Scheme document, be approved subject to any modification, addition or condition which the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands may think fit to approve or impose which would not directly or indirectly have a material adverse effect on the rights of the Scheme Creditors.			

Dated: _____2022

Name of the Scheme Creditor

Signature of the Scheme Creditor

NOTES:

1. A Scheme Creditor must insert his full name and registered address in type or block letters.

2. If it is desired to appoint some other person as proxy, the name of the proxy must be inserted in the space provided instead of the option provided which should be deleted.

3. The Proxy Form must:

   - in the case of an individual Scheme Creditor be signed by the Scheme Creditor or his attorney; and

   - in the case of a corporate Scheme Creditor be given either under its common seal or signed on its behalf by an attorney or by a duly authorised officer of the Scheme Creditor.

4. The Proxy Form (and any authority under which it is executed) must be faxed to +1 345 949 8529 or emailed to OlindaStarLtd@ey.com by no later than 13:00 (New York Time) on the Business Day prior to the day of the meeting.

Annex A

Holdings of Company Indebtedness as of May 16, 2022

Beneficial Owner	10.00% PIK / Cash Senior Secured Notes due 2024		10.00% PIK / Cash Senior Secured Third Lien Notes due 2024		10.00% PIK / Cash Senior Secured Fourth Lien Notes due 2024		Working Capital Facility Credit Agreement
	21038M AA1 / US21038MAA18	L1965H AA8 / USL1965HAA88	21038M AC7 / US21038MAC73	L1965H AC4 / USL1965HAC45	21038M AD5 / US21038MAD56	L1965H AD2 / USL1965HAD28	
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$
	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$	U.S.$
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SCHEDULE 4

THE RJ PLAN AMENDMENT

SCHEDULE 5

THE RJ PLAN AMENDMENT TERM SHEET

SCHEDULE 6

THE 2021 INSOLVENCY PROTOCOL

SCHEDULE 7

THE NOTICE

NOTICE OF COURT CONVENED MEETING

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS

COMMERCIAL DIVISION

CLAIM NO: BVIHC (COM) 2021/0061

IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

AND

IN THE MATTER OF OLINDA STAR LTD (IN PROVISIONAL LIQUIDATION)

Terms used in this Notice have the same meanings as in the scheme circular (the **Scheme**) relating to the proposed scheme of arrangement between Olinda Star Ltd (in Provisional Liquidation) (the **Company** or **Olinda**) and the Scheme Creditors (as defined therein) under section 179A of the BVI Business Companies Act, 2004 (the **Act**).

NOTICE IS HEREBY GIVEN that, by an order dated [ ] (the **Order**) made in the above matter, the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands (the **BVI Court**) has directed a meeting (the **Court Convened Meeting**) to be convened between the Company and the Scheme Creditors for the purpose of considering and, if thought fit, approving (with or without modification) a scheme of arrangement (the **Scheme of Arrangement**) pursuant to section 179A of the Act proposed by the Company and to be made between the Company and the Scheme Creditors and that such Court Convened Meeting will be held at the offices of White & Case, 1221 6th Avenue, New York, 10020, United States of America and via webinar or other virtual means at 13:00 (New York Time) on 13 September 2022.

All Scheme Creditors are requested to attend the Court Convened Meeting either in person (either physically or virtually), by an authorised representative (if a corporation), or by proxy.

To be approved, the Scheme of Arrangement must be approved by a majority in number representing 75% in value of the creditors or class of creditors present and voting either in person or by proxy at the meeting. At the Court Convened Meeting the following resolution will be proposed:

"*THAT the Scheme of Arrangement proposed by the Company, particulars of which are set out in the Scheme, a copy of which has been tabled at this Court Convened Meeting, be approved subject to any modification, addition or condition which the Eastern Caribbean Supreme Court of the Territory of the British Virgin Islands may think fit to approve or impose which would not directly or indirectly have a material adverse effect on the rights of the Scheme Creditors.*"

A copy of the Scheme of Arrangement and a copy of the Scheme explaining the effect of the Scheme of Arrangement are incorporated into the composite document of which this notice forms part. A copy of such document has been made available to the Scheme Creditors through the DTC's Legal Notice System (in respect of the Existing Notes) and [*details of how Bradesco will be*

notified to be confirmed] (in respect of the Existing Bradesco Credit Agreements); and uploaded by the Scheme Company to the website at:

https://www.theconstellation.com/Download.aspx?Arquivo=/nPfsv17RoC9zkl5cSyaVw==&IdCanal=GgZrgRjwxBRA+vpj1rBOlg==

Voting Record Time

Entitlement to attend and vote at the Court Convened Meeting and the number of votes attributable to an individual Scheme Creditor will be as set out in the Scheme.

Voting Procedures

Scheme Creditors may vote in person, by a duly authorised representative or by proxy at the Court Convened Meeting in accordance with the voting instructions more particularly set out in the Scheme. A Scheme Creditor that has a beneficial or contingent interest as a Noteholder in relation to the Existing Notes or an interest in relation to the Existing Bradesco Credit Agreements who wishes to vote at the Court Convened Meeting is requested to liaise with the Scheme Administrator in accordance with the instructions contained in the Voting and Proxy Forms and, in any event, so as to be received **13:00 (New York Time) on 12 September 2022** (the **Submission Deadline**).

A Scheme Creditor on whose behalf a duly completed Voting and Proxy Form is submitted before the Submission Deadline may still attend the Court Convened Meeting in person. If a Scheme Creditor intends to attend the Court Convened Meeting, it may amend its voting instructions provided in a previously submitted Voting and Proxy Form by submitting a new validly completed Voting and Proxy Forms to the Chairman of the Court Convened Meeting before the start of the Court Convened Meeting.

The Trustee is a Scheme Creditor for the purpose of the Scheme. However, under the terms of the voting rights set out in the Scheme it will be considered not to have any votes vote at the Court Convened Meeting.

Any Scheme Creditor who wishes to be represented in person at the Court Convened Meeting (or its proxy) will be required to register its attendance at the Court Convened Meeting prior to its commencement. Registration will commence at [time] on [date]. A passport will be required as proof of personal identity to attend the Court Convened Meeting and, in the case of a corporation, evidence of corporate authority (for example, a valid power of attorney and/or board minutes). Each proxy must bring to the Court Convened Meeting a copy of the Voting and Proxy Form of the Scheme Creditor having been duly completed authorising him or her to act as proxy on behalf of the Scheme Creditor and evidence of personal identity. For persons wishing to attend virtually details of how to be attend virtually will be provided upon their registration for attendance.

If appropriate personal identification is not produced, that person will only be permitted to attend and vote at the Court Convened Meeting at the discretion of the Chairman of the Court Convened Meeting.

Chairman of the Court Convened Meeting

By the said Order, the BVI Court has appointed Eleanor Fisher, to act as the Chairman of the Court Convened Meeting and has directed the Chairman of the Court Convened Meeting to report the result thereof to the BVI Court.

If the requisite majority of Scheme Creditors approve the Scheme of Arrangement at the Court Convened Meeting, the BVI Court will convene a hearing to consider whether to sanction the Scheme of Arrangement ("**Scheme Sanction Hearing**"). Scheme Creditors are entitled (but not obliged) to attend the Scheme Sanction Hearing, through legal counsel, to support or oppose the sanction of the Scheme of Arrangement. The Scheme Sanction Hearing is expected to take place shortly after the Court Convened Meeting at such date and time as the Scheme Administrator or Company may notify to Scheme Creditors.

A Scheme will be legally binding on the Scheme Creditors, including both those voting against the Scheme and those not voting) if:

(a) a majority in number representing 75% in value of the creditors or class of creditors present and voting whether in person (virtually or physically) or by proxy at the Court Convened Meeting agrees to the Scheme of Arrangement;

(b) the BVI Court sanctions the Scheme at the Scheme Sanction Hearing; and

(c) a copy of the BVI Court order sanctioning the Scheme is filed with the BVI Registrar of Companies.

For further information please contact the Scheme Administrator using the contact details below:

Eleanor Fisher acting as joint provisional liquidator of the Company pursuant to the 2021 Insolvency Protocol

Address: EY Cayman Ltd. PO Box 510, 62 Forum Lane, Camana Bay KY1-1106, Cayman Islands

Telephone: +1 (345) 814 8256

Email: OlindaStarLtd@ey.com (please reference "Olinda Scheme" in the subject line)

IN THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
VIRGIN ISLANDS
COMMERCIAL DIVISION
CLAIM No. BVIHC (COM) 2021/0061

IN THE MATTER OF OLINDA STAR LTD. (in Provisional Liquidation)
AND
IN THE MATTER OF THE INSOLVENCY ACT, 2003
AND
IN THE MATTER OF SECTION 179A OF THE BVI BUSINESS COMPANIES ACT, 2004

OLINDA STAR LTD.

(in Provisional Liquidation)

Applicant

SANCTION ORDER

Ogier

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Ref.: GRC/DMT/RKJ/174287.00015
Legal Practitioners for the Applicant