

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re	:		Chapter 11
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PARAGON OFFSHORE PLC, et al.	:		Case No. 16-10386 (CSS)
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	:		(Jointly Administered)
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Debtors. ¹	:		Proposed Hearing Date: Jan. 25, 2017 at 1:00 p.m. (ET)
	:		Proposed Obj. Deadline: Jan. 24, 2017 at 12:00 p.m. (ET)
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**DEBTORS’ MOTION FOR AUTHORIZATION TO SELL THE PARAGON MSS2
FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER
INTERESTS TO MER GROUP PUERTO RICO LLC PURSUANT TO AN
AGREEMENT FOR SALE AND RECYCLING**

Paragon Offshore plc and its affiliated debtors in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”) seek entry of an order substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”): (i) authorizing and approving the sale of the Paragon MSS2, including related assets (collectively, the “**MSS2**” or the “**Rig**”), free and clear of all liens, claims, encumbrances, and other interests (the “**Sale**”); (ii) authorizing the Debtors to enter into, and approving, that certain *Agreement for Sale and Recycling* with MER Group Puerto Rico LLC (the “**Buyer**”), a scrapping facility, in substantially

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Paragon Offshore plc (6017); Paragon Offshore Finance Company (6632); Paragon International Finance Company (8126); Paragon Offshore Holdings US Inc. (1960); Paragon Offshore Drilling LLC (4541); Paragon FDR Holdings Ltd. (4731); Paragon Duchess Ltd.; Paragon Offshore (Luxembourg) S.à r.l. (5897); PGN Offshore Drilling (Malaysia) Sdn. Bhd. (9238); Paragon Offshore (Labuan) Pte. Ltd. (3505); Paragon Holding SCS 2 Ltd. (4108); Paragon Asset Company Ltd. (2832); Paragon Holding SCS 1 Ltd. (4004); Paragon Offshore Leasing (Luxembourg) S.à r.l. (5936); Paragon Drilling Services 7 LLC (7882); Paragon Offshore Leasing (Switzerland) GmbH (0669); Paragon Offshore do Brasil Ltda.; Paragon Asset (ME) Ltd. (8362); Paragon Asset (UK) Ltd.; Paragon Offshore International Ltd. (6103); Paragon Offshore (North Sea) Ltd.; Paragon (Middle East) Limited (0667); Paragon Holding NCS 2 S.à r.l. (5447); Paragon Leonard Jones LLC (8826); Paragon Offshore (Nederland) B.V.; and Paragon Offshore Contracting GmbH (2832). The Debtors’ mailing address is 3151 Briarpark Drive, Suite 700, Houston, Texas 77042.

the form attached to the Proposed Order as **Exhibit 1** (the “**Agreement**”);² (iii) granting the Buyer the protections afforded to a good faith purchaser; and (iv) granting certain other related relief. In support of this motion (the “**Motion**”), the Debtors rely on the *Declaration of Thomas B. Osmun in Support of Debtors’ Motion for Authorization to Sell the Paragon MSS2 Free and Clear of all Liens, Claims, Encumbrances, and Other Interests* (the “**Osmun Declaration**”), attached hereto as **Exhibit B**, and respectfully represent as follows:

JURISDICTION

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and, pursuant to Rule 9013–1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “**Local Rules**”), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. General Background

2. On February 14, 2016 (the “**Petition Date**”), each of the Debtors commenced with this Court a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”). The Debtors continue to operate their

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

business and manage their property as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases.

3. Additional information regarding the circumstances leading to the commencement of these chapter 11 cases and information regarding the Debtors' business and capital structure is set forth in the *Declaration of Ari Lefkovits in Support of the Debtors' Chapter 11 Petitions and Related Requests for Relief* (Docket No. 17) and the *Declaration of James A. Mesterharm in Support of the Debtors' Chapter 11 Petitions and Related Requests for Relief* (Docket No. 18).

B. Specific Background

(i) The Paragon MSS2

4. The MSS2 is a semisubmersible offshore drilling rig, currently cold-stacked at the MER Group Facility, Pier 3, Roosevelt Road, Ceiba, Puerto Rico (the "**MER Facility**"). The MSS2 has been cold-stacked at its current location since April 2016, subsequent to the termination of the Debtors' contract for drilling services with Petróleo Brasileiro S.A. ("**Petrobras**"). See Osmun Declaration ¶ 5. The cost to stack the Rig at the MER Facility is approximately \$102,000 per month. See *id.*

5. The MSS2 is approximately 40 years old, and is at the end of its useful life. See *id.* ¶ 4. The Debtors estimate that the required survey and repair work to refurbish the Rig would be approximately \$44 million to \$58 million. See *id.* Subsequent to the termination of the Debtors' contract with Petrobras in April 2016, the Debtors have been unable to procure new work for the Rig that would justify the required refurbishment costs. See *id.* After the Petrobras contract terminated, the Debtors examined several locations to cold-stack the Rig. Due to the size and design of the Rig, the Debtors determined that a viable cold-stacking location did not exist in South America and that the movement of the Rig would require a significant capital

expenditure. For example, transporting the MSS2 to South Africa from Brazil would have cost the Debtors approximately \$12 million to \$18 million. Instead, at a cost of approximately \$4 million, the Debtors transported the Rig to the most cost-effective location at the time, the MER Facility in Puerto Rico, while still attempting to obtain contracts for the Rig. *See id.* ¶ 7.

6. The Debtors' current business plan (the "**Business Plan**") contemplates the Debtors scrapping the MSS2 in February 2017. *See id.* ¶ 6. The Debtors are executing on this Business Plan by consummating the scrapping of the Rig before January 31, 2017, enabling them to save the unnecessary costs associated with cold-stacking the Rig for an additional month.

(ii) *The Buyer and Agreement Terms*

7. Pursuant to the Agreement, Paragon Drilling Services 7 LLC (the "**Seller**"), owner of the MSS2, has negotiated a contract to sell the MSS2 to the MER Facility, for purposes of scrapping and recycling.

8. Consistent with Local Rule 6004-1, the salient terms of the Agreement are as follows:³

- **Sale and Purchase of the MSS2:** The Debtors have agreed to sell, and the Buyer has agreed to purchase the MSS2, for the purpose of recycling only. (Agreement § 2).
- **Deposit:** Within seven (7) business days after the mutual execution of the Agreement, the Buyer will pay the Debtors a deposit equal to ten percent (10%) of the Sale Price (as defined below), or approximately \$21,916 (the "**Deposit**"). The Deposit may only be refunded to the Buyer: (i) if the Closing does not occur before February 7, 2017 (the "**Outside Date**") by reason of breach of the Agreement by the Seller and the Buyer terminates the Agreement; (ii) if the Seller is unable to obtain either: (a) Bankruptcy Court Approval on or before January 31, 2017 or (b) the release of the Mortgage on or before the Closing Date, and the Buyer terminates the Agreement; or (iii) the Agreement terminates upon the Total Loss of the Rig. (Agreement §§ 3.2, 7.3, 10.1).

³ This summary is qualified in its entirety by the actual terms and provisions of the Agreement. Capitalized terms used in the paragraph and not otherwise defined, have the meaning ascribed to them in the Agreement.

- **Payment of Purchase Price:** The sale price (the “**Sale Price**”) for the MSS2 is approximately \$219,160 in cash (calculated on the basis of approximately \$20 per long ton of the agreed lightweight of the Rig). (Agreement § 3.1).
- **Releases:** The Buyer shall defend, release, indemnify and hold harmless the Seller’s Group from and against all Claims which arise directly or indirectly out of or in connection with: (i) injury to, illness or death of any member of the Buyer’s Group; (ii) loss of or damage to the property of any member of the Buyer’s Group (including the Unit on or after the Closing Time); (iii) loss or damage caused by the Tug(s); (iv) the presence of any member or invitee of the Buyer’s Group on the Unit; (v) the Unit after the Closing Time and/or the Recycling of the Unit, including without limitation all Claims relating to pollution, contamination or any similar occurrence; (vi) any breach by the Buyer of any of the representations, warranties, covenants or agreements set forth in this Agreement; and/or (vii) any breach of any of the Buyer’s obligations to comply with the laws of the Applicable Ship Recycling Regime, including but not limited to any fine, penalty, cost or sanction arising out of or resulting from the violation of any federal, state, or local law governing the import, handling, storage, removal, transportation, or disposal of any hazardous or toxic substance.

Subject to certain other provision of the Agreement, and subject to any letters of indemnity which may be given pursuant to Article 5.1 of the Agreement, the Seller shall release, indemnify, defend and hold harmless the Buyer’s Group from and against all Claims which arise directly or indirectly out of or in connection with: (i) injury to, illness or death of any member of the Seller’s Group; (ii) loss of or damage to the property of any member of the Seller’s Group (including the Unit before the Closing Time); and/or (iii) any breach by the Seller of any of the representations, warranties, covenants or agreements set forth in the Agreement. (Agreement §§ 11.1, 11.2).

- **Private Sale:** The Agreement contemplates a private sale.
- **Sale Motion and Order:** The Agreement will not be effective or binding on the Debtors unless the Court enters a final order approving the Agreement. (Agreement § 6.2).
- **Closing Date and Other Deadlines:** The Closing shall take place on a Business Day nominated in writing by the Seller (the “**Closing Date**”), at which time the Seller will deliver, among other things, executed Bills of Sale for the Rig to the Buyer. On the Closing Date, the Buyer will deliver to the Seller, among other things, evidence of the irrevocable and unconditional transfer of the Sale Price to the Seller. Thereafter, the Rig will be delivered to the Buyer. The Seller shall provide the Buyer with five (5) calendar days’ approximate notice and two (2) calendar days’ definite notice of when the Seller intends to deliver the Rig. (Agreement §§ 1.1, 7.1, 8.1).

- **Sale Free and Clear:** The Agreement contemplates that the MSS2 will be sold free and clear of all liens (other than certain Permitted Liens) (Agreement § 8.2).
- **Relief from Bankruptcy Rule 6004(h):** The parties contemplated, and this Motion hereby requests, that the fourteen-day stay under Bankruptcy Rule 6004(h) be waived.

RELIEF REQUESTED

9. By this Motion, pursuant to Bankruptcy Code sections 105(a) and 363, Bankruptcy Rules 2002 and 6004, and Local Rule 6004-1, the Debtors request entry of the Proposed Order: (i) authorizing and approving the Sale of the MSS2 free and clear of all liens, claims, encumbrances, and other interests; (ii) authorizing the Debtors to enter into, and approving, the Agreement; (iii) granting the Buyer the protections afforded to a good faith purchaser; and (iv) granting certain other related relief.

SUPPORTING AUTHORITY

10. Bankruptcy Code section 363(b)(1) provides, in pertinent part, that the “trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). Bankruptcy Code section 105(a), which confers broad powers on bankruptcy courts, provides that the “court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a).

11. The use, sale, or lease of property of the estate outside the ordinary course of business under Bankruptcy Code section 363(b) should be authorized when there is a “sound business purpose” that justifies such use of estate property. *See, e.g., In re Del. & Hudson Ry. Co.*, 124 B.R. 169, 175-76 (D. Del. 1991) (adopting the “sound business purpose” test to evaluate motions brought pursuant to Bankruptcy Code section 363(b)); *In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (same). Thus, courts should approve

transactions supported by the sound business judgment of a debtor's management. *See, e.g., In re Phoenix Steel Corp.*, 82 B.R. 334, 335-36 (Bankr. D. Del. 1987).

12. Where valid business justifications exist, there is a strong presumption "that in making a business decision the directors of a corporation acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interests of the company." *See Official Comm. of Subordinated Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.)*, 147 B.R. 650, 656 (S.D.N.Y. 1992) (citation omitted). Furthermore, "[w]here the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor's conduct." *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (citation omitted). Instead, objections to such decisions will only be entertained when they allege "bad faith, self-interest, or gross negligence." *See In re Integrated Res.*, 147 B.R. at 656. The burden of rebutting this presumption falls to parties opposing the proposed exercise of the debtor's business judgment. *Id.* (citing *Aronson v. Lewis*, 473 A.2d 805, 812 (Del. 1984)). A proposed sale under Bankruptcy Code section 363 should be approved if the Court is satisfied that: (i) the debtor has exercised its sound business judgment; (ii) the debtor has provided adequate notice; (iii) the purchaser has proceeded in good faith; and (iv) the purchase price is fair. *See In re Del. & Hudson Ry. Co.*, 124 B.R. at 176. The Sale of the MSS2 pursuant to the Agreement satisfies each condition.

A. Sale of the MSS2 is a Valid Exercise of the Debtors' Business Judgment

13. The Debtors' decision to sell the MSS2 on the terms set forth in the Agreement reflects a reasonable exercise of their business judgment. At approximately 40 years old, the MSS2 has reached the end of its useful life. *See* Osmun Declaration ¶ 4. The MSS2 would require significant refurbishments prior to being placed back into service and the Debtors

estimate that the required survey and various repair work to refurbish the Rig would cost between \$44 million and \$58 million, an investment that the Debtors do not believe to be worthwhile or prudent at this time. *See id.*

14. Further, the MSS2 has been cold-stacked in the MER Facility since the termination date of the Debtors' contract with Petrobras in April 2016. *See id.* ¶ 5. It currently costs the Debtors approximately \$102,000 per month, to stack the Rig, an expense that the Debtors will avoid by scrapping the Rig. *See id.* In addition, the Sale will generate proceeds of over \$200,000. *See id.*

15. While the Debtors' current Business Plan contemplates that the Debtors scrap the MSS2 in February 2017, the Debtors now seek to seize an opportunity to reduce cold-stacking costs by selling the MSS2 before January 31, 2017. On that date, the Debtors' docking agreement with the MER Facility is set to expire. *See id.* ¶ 6. Upon expiration of the docking agreement, the Debtors can be forced to remove the MSS2 from the MER Facility. It would cost the Debtors approximately \$300,000 to transport the Rig to an interim docking location in Puerto Rico, and incremental costs to transport the Rig from this interim docking location to a future buyer. *See id.* When taking docking fees into account, the incremental costs associated with moving the Rig upon termination of the docking agreement are anticipated to be approximately \$700,000. *See id.* Moreover, this calculation assumes that the Debtors could sell the Rig to another buyer in Puerto Rico. *See id.* Should the Debtors be forced to sell the Rig to a buyer outside of Puerto Rico, transportation costs would increase significantly. *See id.* By selling the Rig to the MER Facility prior to January 31, 2017, the Debtors hope to avoid these unnecessary and burdensome costs.

16. The Debtors' decision to sell the MSS2 for its scrap value, and not as a going concern, is also a valid exercise of their business judgment. It is highly unlikely that the Rig has much going concern value, if any, because (i) the Rig is nearly 40 years old and any prospective buyer would likely have to invest at least \$44 million – and potentially up to \$58 million – to refurbish the Rig prior to placing it back into service; (ii) semisubmersibles perform very specialized drilling services in very specific locations, reducing demand for the MSS2; and (iii) the substantial costs attendant to moving the Rig to a new drilling location make the Rig less attractive to potential buyers. *See id.* ¶ 7. Additionally, given the state of the market at the time of the termination of the contract with Petrobras and the lack of other opportunities to deploy the MSS2, the Debtors' management team made a business decision to cold-stack the MSS2 to save costs. Due to the fact that the Debtors were unable to procure work for the Rig in Brazil subsequent to the termination of the contract with Petrobras in April 2016, the Debtors transported the Rig to the most cost-effective location, the MER Facility in Puerto Rico. *See id.*

17. The Debtors' decision to sell the MSS2 to the MER Facility – and not to another party for scrapping – is also a valid exercise of the Debtors' business judgment. As discussed above, transporting the Rig to another facility in Puerto Rico would be cost prohibitive given the cost of transporting the Rig and the current scrap market price per ton of steel. *See id.* ¶ 8. The Sale Price that the Debtors are receiving from the Buyer, approximately \$200,000, is based upon fairly standardized and transparent scrapping prices. *See id.* The Debtors do not believe that they could have obtained a sale price over and above the costs of any necessary transportation that would provide them with the approximately \$200,000 in proceeds that they are currently obtaining. Moreover, to the Debtors' knowledge, no rig with the unique design of the MSS2 – a

pentagonal midwater floater – has ever been scrapped, and the Buyer is willing to undertake the scrapping.

18. Accordingly, the Debtors submit that the Sale is an exercise of their reasonable business judgment, is in the best interest of their estates and creditors, and should be approved.

B. The Sale of the MSS2 Free and Clear of Liens, Claims and Encumbrances is Appropriate

19. The Debtors further submit that it is appropriate to sell the MSS2 free and clear of all liens, claims, encumbrances, and other interests pursuant to Bankruptcy Code section 363(f). Pursuant to Bankruptcy Code section 363(f), a debtor may sell property free and clear of any liens, claims, encumbrances, and other interests of an entity other than the estate if one of the following conditions is satisfied:

- (i) applicable nonbankruptcy law permits the sale of such property free and clear of such interest;
- (ii) such entity consents;
- (iii) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (iv) such interest is in bona fide dispute; or
- (v) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f). Because Bankruptcy Code section 363(f) is stated in the disjunctive, when selling property of the estate, it is only necessary to meet one of the five conditions listed in that section. *See Folger Adam Sec., Inc. v. DeMatteis/MacGregor, JV*, 209 F.3d 252, 257 (3d Cir. 2000) (noting that a debtor is authorized to sell property free and clear of “any interest” if any one of the five prescribed conditions under section 363(f) is met); *In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (“Section 363(f) is written in the disjunctive, not the

conjunctive, and if any of the five conditions are met, the debtor has the authority to conduct the sale free and clear of all liens.”) (citations omitted).

20. The Sale of the MSS2 satisfies Bankruptcy Code section 363(f) because any known entities holding liens, claims, or encumbrances, or other interests in, the MSS2 will receive notice of this Motion. All known parties in interest will be given sufficient opportunity to object to the relief requested in this Motion, and any such entity that does not object to the sale should be deemed to have consented. *See Futuresource LLC v. Reuters Ltd.*, 312 F.3d 281, 285-86 (7th Cir. 2002) (“It is true that the Bankruptcy Code limits the conditions under which an interest can be extinguished by a bankruptcy sale, but one of those conditions is the consent of the interest holder, and lack of objection (provided of course there is notice) counts as consent. It could not be otherwise; transaction costs would be prohibitive if everyone who *might* have an interest in the bankrupt’s assets had to execute a formal consent before they could be sold.”) (internal citations omitted) (emphasis in original); *Hargrave v. Twp. of Pemberton (In re Tabone, Inc.)*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (failure to object to sale free and clear of liens, claims and encumbrances satisfies section 363(f)(2)); *In re Elliot*, 94 B.R. at 345 (same). As such, to the extent that no party holding liens, claims, encumbrances, or other interests objects to the relief requested in the Proposed Order, the sale of the MSS2 free and clear of all liens, claims, encumbrances, or other interests satisfies Bankruptcy Code section 363(f)(2).

21. Moreover, the only parties that the Debtors know to have liens, claims or encumbrances against, or interests in, the MSS2 are the lenders under the Debtors’ Senior Secured Revolving Credit Agreement, dated as of June 17, 2014 (the “**Revolver Lenders**”), and the lenders under the Debtors’ Senior Secured Term Loan Agreement, dated as of July 18, 2014 (the “**Term Lenders**” and, together with the Revolver Lenders, the “**Secured Lenders**”). The

Debtors have notified the Secured Lenders' of the impending Sale, and the Secured Lenders have informed the Debtors that they do not object to the Sale.

22. Accordingly, the Debtors request that the MSS2 be transferred to the Buyer, free and clear of all liens, claims, encumbrances, and other interests.

C. The Sale Price is Fair and Reasonable and an Auction of the MSS2 is Not Required

23. Bankruptcy Rule 6004(f)(1) permits private sales or sales conducted without an auction. Fed. R. Bankr. P. 6004(f)(1) (“All sales not in the ordinary course of business may be by private sale or by public auction.”). Further, courts have generally held that a debtor has broad discretion in determining the manner in which assets are sold. *Berg v. Scanlon (In re Alisa P’ship)*, 15 B.R. 802, 802 (Bankr. D. Del. 1981) (“[T]he manner of sale is within the discretion of the trustee”); *In re Bakalis*, 220 B.R. 525, 531 (Bankr. E.D.N.Y. 1998) (noting that a trustee “has ample discretion to administer the estate, including authority to conduct public or private sales of estate property.”) (citing *In re WPRV-TV, Inc.*, 143 B.R. 315, 319 (D.P.R. 1991)). As long as a debtor maximizes the return to its estate, a court should defer to a debtor’s business judgment regarding how to structure an asset sale. *See Bakalis*, 220 B.R. at 532 (recognizing that although a trustee’s business judgment enjoys great judicial deference, a duty is imposed on the trustee to maximize the value obtained from a sale); *In re NEPSCO, Inc.*, 36 B.R. 25, 26 (Bankr. D. Me. 1983) (“Clearly, the thrust of th[e] statutory scheme [governing section 363 sales] is to provide maximum flexibility to the trustee, subject to the oversight of those for whose benefit he acts, *i.e.*, the creditors of the estate.”). Accordingly, if the Debtors conclude that conducting a private sale, as opposed to a public auction, is in the best interests of their estates, the Debtors should be permitted to do so. *See Penn Mut. Life Ins. Co. v. Woodscape Ltd. P’ship (In re Woodscape Ltd. P’ship)*, 134 B.R. 165, 174 (Bankr. D. Md. 1991) (noting that, with

respect to sales of estate property, “[t]here is no prohibition against a private sale . . . and there is no requirement that the sale be by public auction.”).

24. As discussed above, given the MSS2’s advanced age, the specialized type of drilling services that semisubmersibles perform, the cost to refurbish the Rig, and the costs attendant to moving the Rig to a new location, there is very little market demand, if any, for the MSS2. *See* Osmun Declaration ¶ 10. In fact, after the Petrobras contract expired, the Debtors were unable to find work for the Rig that would justify the refurbishment costs. *See id.* Therefore, the Debtors will sell it to the MER Facility for its scrap value, instead of selling it as a going concern. As discussed above, the Debtors determined it was most cost effective to sell the Rig to the MER Facility where it is currently located. Incremental transportation costs render it uneconomical to transport the Rig to any alternative scrapping facility, even if that facility is nearby. *See id.* The Debtors negotiated the Agreement and Sale Price at arms’ length with the Buyer. Accordingly, the Debtors’ decision to sell the MSS2 to the Buyer for the Sale Price without an auction is supported by the Debtors’ business judgment and should be approved.

D. Adequate and Reasonable Notice of the Sale will be Provided

25. In accordance with Local Rule 2002-1(b), the Debtors intend to provide adequate notice of the proposed Sale by sending copies of this Motion and the Agreement to all parties in interest. This Motion, and the description of the Sale contained herein, more than satisfy the requirements of Bankruptcy Rule 2002(c)(1).

E. Buyer is Entitled to Good Faith Protections

26. The Buyer is purchasing the MSS2 in good faith and is entitled to the full protection of Bankruptcy Code section 363(m). Bankruptcy Code section 363(m) protects a good-faith purchaser’s interest in property purchased from the debtor, notwithstanding that the

sale conducted under Bankruptcy Code section 363(b) is later reversed or modified on appeal.

Specifically, Bankruptcy Code section 363(m) states that:

The reversal or modification on appeal of an authorization under [section 363(b) of the Bankruptcy Code] of a sale . . . of property does not affect the validity of a sale . . . to an entity that purchased . . . such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale . . . were stayed pending appeal.

11 U.S.C. § 363(m).

27. Bankruptcy Code section 363(m) fosters the “policy of not only affording finality to the judgment of the bankruptcy court, but . . . give[s] finality to those orders and judgments upon which third parties rely.” *In re Abbotts Dairies of Pa., Inc.*, 788 F.2d 143, 147 (3d Cir. 1986) (quoting *Hoese Corp. v. Vetter Corp. (In re Vetter Corp.)*, 724 F.2d 52, 55 (7th Cir. 1983)); *see Allstate Ins. Co. v. Hughes*, 174 B.R. 884, 888 (S.D.N.Y. 1994) (“Section 363(m) . . . provides that good faith transfers of property will not be affected by the reversal or modification on appeal of an unstayed order, whether or not the transferee knew of the pendency of the appeal.”); *In re Stein & Day, Inc.*, 113 B.R. 157, 162 (Bankr. S.D.N.Y. 1990) (“pursuant to 11 U.S.C. §363(m), good faith purchasers are protected from the reversal of a sale on appeal unless there is a stay pending appeal.”).

28. Here, the terms and conditions of the Agreement have been negotiated by the Debtors and the Buyer at arm’s-length and in good faith. The Buyer was represented by qualified counsel and the Debtors believe that the Buyer has not engaged in any conduct that would indicate or constitute a lack of good faith. *See In re Gucci*, 126 F.3d 380, 390 (2d Cir. 1997) (“Good faith of a purchaser is shown by the integrity of his conduct during the course of the sale proceedings”); *In re Tempo Tech. Corp.*, 202 B.R. 363, 367 (D. Del. 1996) (stating that a purchaser’s good faith status would be destroyed only by conduct involving “fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly

unfair advantage of other bidders.”) (quoting *In re Rock Indus. Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978)). Accordingly, the Debtors believe that the Buyer is entitled to the protections that Bankruptcy Code section 363(m) provides to a good faith purchaser.

F. Request for Relief Under Bankruptcy Rule 6004(h)

29. Bankruptcy Rule 6004(h) provides that an “order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). The Debtors request that any order approving the sale of the MSS2 be effective immediately upon entry of such order by providing that the fourteen-day stay shall not apply. As discussed above, if the Debtors do not close the Sale by January 31, 2017, they run the risk of incurring substantial, unnecessary costs upon the termination of their docking agreement. Accordingly, the Debtors submit that the fourteen-day stay required by Bankruptcy Rule 6004(h) should be waived.

NOTICE

30. No trustee, examiner, or statutory committee of creditors has been appointed in these chapter 11 cases. Notice of this Motion has been provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the Debtors’ thirty (30) largest unsecured creditors on a consolidated basis; (iii) Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017 (Attn: Sandeep Qusba, Esq., Kathrine A. McLendon, Esq., and Morris J. Massel, Esq.), counsel to JPMorgan Chase Bank, N.A. (a) as administrative agent under the Senior Secured Revolving Credit Agreement, dated as of June 17, 2014, and (b) as collateral agent under the Guaranty and Collateral Agreement, dated as of July 18, 2014; (iv) Arnold & Porter Kaye Scholer LLP, 250 West 55th Street, New York, NY 10019 (Attn: Scott D. Talmadge, Esq. and Mark F. Liscio, Esq.), counsel to Cortland Capital Market Services L.L.C. as administrative agent under the Senior Secured Term Loan Agreement, dated as of July 18, 2014;

(v) Morgan, Lewis, & Bockius LLP, 101 Park Avenue, New York, NY 10178 (Attn: James O. Moore, Esq., Glenn E. Siegel, Esq., and Joshua Dorchak, Esq.), counsel to Deutsche Bank Trust Company Americas as trustee under the Senior Notes Indenture, dated as of July 18, 2014, for the 6.75% Senior Notes due 2022 and the 7.25% Senior Notes due 2024; (vi) Paul, Weiss, Rifkind, Wharton, & Garrison LLP, 1285 Avenue of the Americas, New York, NY 10019 (Attn: Andrew N. Rosenberg, Esq. and Elizabeth R. McColm, Esq.), counsel to certain holders of the 6.75% Senior Notes due 2022 and the 7.25% Senior Notes due 2024; (vii) the Securities and Exchange Commission; (viii) the Internal Revenue Service; (ix) the United States Attorney's Office for the District of Delaware; (x) any other parties known to the Debtors to hold, or parties that the Debtors subsequently become aware of that hold, liens, claims or encumbrances against, or interests in, the Rig; and (xi) all parties who filed a request for service of notices under Bankruptcy Rule 2002.

No Previous Request

31. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

Dated: January 17, 2017
Wilmington, Delaware

/s/ Amanda R. Steele

RICHARDS, LAYTON & FINGER, P.A.

Mark D. Collins (No. 2981)

Amanda R. Steele (No. 5530)

Joseph C. Barsalona II (No. 6102)

One Rodney Square

920 North King Street

Wilmington, Delaware 19801

Telephone: (302) 651-7700

Facsimile: (302) 651-7701

-and-

WEIL, GOTSHAL & MANGES LLP

Gary T. Holtzer (admitted *pro hac vice*)

Stephen A. Youngman (admitted *pro hac vice*)

Alfredo R. Pérez (admitted *pro hac vice*)

767 Fifth Avenue

New York, New York 10153

Telephone: (212) 310-8000

Facsimile: (212) 310-8007

Attorneys for Debtors and Debtors in Possession

Exhibit A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	X		
	:		
In re	:		Chapter 11
	:		
PARAGON OFFSHORE PLC, et al.	:		Case No. 16–10386 (CSS)
	:		
	:		(Jointly Administered)
	:		
Debtors. ¹	:		
	:		
	:		
	:		
	X		

ORDER AUTHORIZING DEBTORS TO SELL THE PARAGON MSS2 FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS TO MER GROUP PUERTO RICO LLC PURSUANT TO AN AGREEMENT FOR SALE AND RECYCLING

Upon the motion (the “**Motion**”)² of the above-captioned debtors and debtors in possession (collectively, the “**Debtors**”), for entry of this Order, pursuant to Bankruptcy Code sections 105(a) and 363, Bankruptcy Rules 2002 and 6004, and Local Rule 6004-1, (i) authorizing and approving the Sale of the MSS2 free and clear of all liens, claims, encumbrances, and other interests; (ii) authorizing the Debtors to enter into, and approving, the Agreement; (iii) granting the Buyer the protections afforded to a good faith purchaser; and (iv) granting certain other related relief, all as more fully described in the Motion; and the Court

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Paragon Offshore plc (6017); Paragon Offshore Finance Company (6632); Paragon International Finance Company (8126); Paragon Offshore Holdings US Inc. (1960); Paragon Offshore Drilling LLC (4541); Paragon FDR Holdings Ltd. (4731); Paragon Duchess Ltd.; Paragon Offshore (Luxembourg) S.à r.l. (5897); PGN Offshore Drilling (Malaysia) Sdn. Bhd. (9238); Paragon Offshore (Labuan) Pte. Ltd. (3505); Paragon Holding SCS 2 Ltd. (4108); Paragon Asset Company Ltd. (2832); Paragon Holding SCS 1 Ltd. (4004); Paragon Offshore Leasing (Luxembourg) S.à r.l. (5936); Paragon Drilling Services 7 LLC (7882); Paragon Offshore Leasing (Switzerland) GmbH (0669); Paragon Offshore do Brasil Ltda.; Paragon Asset (ME) Ltd. (8362); Paragon Asset (UK) Ltd.; Paragon Offshore International Ltd. (6103); Paragon Offshore (North Sea) Ltd.; Paragon (Middle East) Limited (0667); Paragon Holding NCS 2 S.à r.l. (5447); Paragon Leonard Jones LLC (8826); Paragon Offshore (Nederland) B.V.; and Paragon Offshore Contracting GmbH (2832). The Debtors’ mailing address is 3151 Briarpark Drive, Suite 700, Houston, Texas 77042.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding in accordance with 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances; and a hearing having been held to consider the relief requested in the Motion; and upon the record of the hearing and all proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest and that the legal and factual bases set forth in the motion establish just cause for the relief granted herein; and any objections to the requested relief having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED:

1. The Motion is granted to the extent provided herein.
2. The Agreement, in substantially the form attached to this Order as **Exhibit 1**, together with all of the terms and conditions thereof, is approved.
3. The failure specifically to include any particular provision of the Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Agreement be authorized and approved in its entirety.
4. Pursuant to Bankruptcy Code section 363(b), the Debtors are authorized to perform their obligations under and comply with the terms of the Agreement, and consummate the sale, pursuant to and in accordance with the terms and conditions of the Agreement.
5. The Debtors are authorized to execute and deliver, and empowered to perform under, consummate and implement, the Agreement, together with all additional instruments and

documents that may be reasonably necessary or desirable to implement the Agreement, and to take all further actions as may be reasonably required for the purpose of assigning, transferring, granting, conveying and conferring the MSS2 to the Buyer, or as may be necessary or appropriate to the performance of the obligations as contemplated by the Agreement.

6. Pursuant to Bankruptcy Code section 363(f), the sale of the MSS2 to the Buyer shall be free and clear of any and all liens, claims and encumbrances against, and other interests in, the MSS2, with such liens, claims, encumbrances and interests, including the liens of the Collateral Agent (as defined in the *Final Order (I) Authorizing the Debtors to Utilize Cash Collateral; and (II) Granting JPMorgan Chase Bank, N.A., as Administrative Agent for the Revolver Lenders and Collateral Agent for the Revolver Lenders and Term Loan Lenders and Cortland Capital Market Services L.L.C. as Successor Administrative Agent for the Term Loan Lenders, Adequate Protection Pursuant to Sections 105, 361, 362, 363, and 507 of the Bankruptcy Code* [Docket No. 140]), to attach to the proceeds of the sale with the same force, effect, and priority as such liens, claims, encumbrances and other interests have on the MSS2, as appropriate.

7. The transactions contemplated by the Agreement are undertaken by the Buyer in good faith, as that term is used in Bankruptcy Code section 363(m), and accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the sale shall not affect the validity of the sale of the MSS2 to the Buyer, unless such authorization is duly stayed pending such appeal. The Buyer is a purchaser in good faith of the MSS2, and is entitled to all of the protections afforded by Bankruptcy Code section 363(m).

8. The consideration provided by Buyer for the MSS2 under the Agreement is fair and reasonable and may not be avoided under Bankruptcy Code section 363(n).

9. The rights and defenses of the Debtors and any other party in interest with respect to any assertion that any liens, claims, encumbrances, and other interests will attach to the proceeds of the sale are hereby preserved.

10. To the extent applicable, the stay provided under Bankruptcy Rule 6004 is waived. For the avoidance of doubt, this order shall be immediately effective and enforceable upon entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

12. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation or implementation of this Order.

Wilmington, Delaware
Date: January __, 2017

THE HONORABLE CHRISTOPHER S. SONTCHI
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1
Agreement

Private & Confidential

Draft Dated 16 Jan 2017

DATED [•] January 2017

PARAGON DRILLING SERVICES 7 LLC

and

MER GROUP PUERTO RICO LLC

AGREEMENT FOR SALE AND RECYCLING

"MSS2"

THIS AGREEMENT FOR SALE AND RECYCLING (this "**Agreement**") is entered into on [●], by and between

- (1) **Paragon Drilling Services 7 LLC**, a company organized and existing under and by virtue of the laws of the State of Delaware, United States of America ("**Seller**"); and
- (2) **MER Group Puerto Rico LLC**, a company organized and existing under and by virtue of the laws of Puerto Rico ("**Buyer**"),

(the Buyer and Seller are referred to herein individually as a "**Party**" and collectively as the "**Parties**").

WHEREAS the Seller is the owner of the Unit (as defined below) which is currently cold-stacked at the Current Location; and

WHEREAS the Buyer wishes to purchase, and the Seller wishes to sell the Unit for demolition and recycling on the terms and conditions set forth below; and

NOW, THEREFORE, for and in consideration of the premises and the mutual agreements contained herein, the Buyer and the Seller hereby agree as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1. **Definitions.** In this Agreement, unless the context otherwise requires:

- (a) "**Affiliate**" means, with respect to one of the Parties hereto, any other company or legal entity which (i) is owned or controlled by such Party, (ii) owns or controls such Party, or (iii) is under common ownership or control as such Party. As used in the preceding sentence, "**control**" shall mean the right or ability to control more than fifty percent (50%) of the voting rights of a company or entity.
- (b) "**Applicable Ship Recycling Regime**" means the laws, regulations, conventions and agreements applicable in the Current Location and/or at the Breaking Location, including but not limited to the Resource Conservation and Recovery Act of 1976 (RCRA), Toxic Substances Control Act of 1976 (TSCA), Clean Water Act, Clean Air Act, Occupational Safety and Health Act of 1970, and all other state or federal laws or regulations applicable or relating to:
 - (i) the demolition and recycling of the Unit and the deployment of workers in relation thereto;
 - (ii) the exportation, towage or importation of the Unit from the Current Location to the Breaking Location for the purposes of such demolition and recycling including those of the International Labour Organization and the IMO (including the IMO's Guidelines on Ship Recycling adopted at the 23rd Assembly); and/or
 - (iii) pollution, human or wildlife well-being or protection of the environment.
- (c) "**Approved Hazardous Materials Surveyor**" means a contractor in possession of an Approved Surveyor Certificate.

- (d) "**Approved Surveyor Certificate**" means a certificate issued by a third party recognised by a classification society approving a contractor for the preparation of inventories of hazardous materials on board ships in compliance with the Hong Kong Convention and IMO Resolution MEPC.197(62) adopted on 15 July 2011 entitled "2011 Guidelines for the Development of the Inventory of Hazardous Materials".
- (e) "**Bankruptcy Court**" means the United States Bankruptcy Court for the State of Delaware.
- (f) "**Bankruptcy Court Authorization**" means a written order of the Bankruptcy Court authorizing the transactions contemplated by this Agreement.
- (g) "**Breaking Location**" means the place where the Ship Recycling Facility is located.
- (h) "**Business Day**" means a day on which banks are open for business in New York City, USA.
- (i) "**Buyer Taxes**" means any Taxes relating to the Unit and/or the transactions contemplated in this Agreement (including all Transfer Taxes), other than Seller Taxes.
- (j) "**Buyer Representative**" has the meaning given in Article 5.1.
- (k) "**Certificate of Acceptance**" means the Certificate of Acceptance of Delivery in the form of Schedule 2 to be delivered at the Closing in respect of the Unit.
- (l) "**Claims**" includes claims, damages, losses, demands, fines, penalties, liens, encumbrances, causes of action (including actions in rem or in personam), obligations, costs, interest, expenses (including legal expenses), judgments, awards and liabilities of every kind and nature whatsoever, whether created by law, contract, tort, voluntary settlement, or otherwise, arising out of, related to, or in any way connected with this Agreement or any transactions contemplated hereunder.
- (m) "**Closing**" means the consummation of the purchase and sale of the Unit.
- (n) "**Closing Date**" has the meaning given in Article 7.1.
- (o) "**Closing Payment**" has the meaning given in Article 3.3.
- (p) "**Closing Time**" means the date and time stated on the Certificate of Acceptance.
- (q) "**Current Location**" means the location of the Unit as at the date hereof, being quayside at MER Group Facility, Pier 3, Roosevelt Road, Ceiba, Puerto Rico.
- (r) "**Deposit**" has the meaning given in Article 3.2.
- (s) "**Gross Negligence**" means a negligent act or negligent failure to act (whether sole, joint or concurrent) by any person, which act or failure to act is

more fundamental than a failure to exercise proper skill and/or care and would reasonably be perceived as entailing an extreme degree of risk of injury to a person or physical loss of or damage to property (considering the probability and magnitude of the potential injury, loss or damage), coupled with the person's actual awareness of and indifference to such extreme risk.

- (t) "**Group**" means:
- (i) in relation to the Seller, (A) the Seller and its Affiliates, (B) contractors and sub-contractors of the Seller and/or its Affiliates and (C) the respective officers, directors, agents and employees of any person within (A) or (B) above, but shall not include any member of the Buyer's Group; and
 - (ii) in relation to the Buyer, (A) the Buyer and its Affiliates, (B) contractors and sub-contractors of the Buyer and/or its and their Affiliates and (C) the respective officers, directors, agents and employees of any person within (A) or (B) above.
- (u) "**Hazardous Materials**" means any products, materials, substances or waste (i) which are polluting, toxic or hazardous or liable to create hazards to human health and/or the environment, and/or (ii) the release of which into the environment is howsoever regulated, prohibited or penalised by or pursuant to the Applicable Ship Recycling Regime.
- (v) "**Hong Kong Convention**" means the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 adopted at a diplomatic conference held in Hong Kong, China, from 11 to 15 May 2009.
- (w) "**IMO**" means the International Maritime Organization.
- (x) "**International Labour Organization**" means the United Nations agency responsible for, inter alia, international labour standards.
- (y) "**Inventory of Hazardous Materials**" means the document referred to in Article 4.3(c).
- (z) "**Lien**" means a lien (maritime or otherwise), mortgage, security interest, pledge or other charge or encumbrance.
- (aa) "**Mortgage**" means the First Preferred Ship Mortgage dated 18 July 2014 by the Seller in favour of JPMorgan Chase Bank, N.A.
- (bb) "**Outside Date**" means 7 February 2017.
- (cc) "**Permitted Lien**" means any Lien on the Unit or any part of the Unit which arises from or in connection with Buyer Taxes.
- (dd) "**Recycling**" and/or "**Recycle**" means the activity of complete or partial dismantling of ships and offshore units at the Ship Recycling Facility in order to recover components and materials for reprocessing and re-use, whilst removing, handling, storing, containing, transporting or disposing of

Hazardous Materials and other materials, and includes associated operations such as storage and treatment of components and materials on site.

- (ee) **"Recycling Yard"** means MER Group Puerto Rico LLC, a company organized and existing under and by virtue of the laws of Puerto Rico.
- (ff) **"Regardless of Cause"** means notwithstanding any tort (including negligence), breach of contract (including core, fundamental or repudiatory breach of contract) or quasi-contract, misrepresentation, breach of statutory duty, strict liability, breach of any laws, regulations, rules or orders of any government or other authority having jurisdiction, Gross Negligence, Wilful Misconduct or otherwise, on the part of the Party or other person seeking indemnity (or exclusion or limitation of liability, as the case may be) or of any other person, and without regard to any right of limitation or exclusion of liability pursuant to the laws of any state or the provisions of any international convention; except only that "Regardless of Cause" shall not include Wilful Misconduct on the part of Senior Managerial Personnel of (i) the Party or person seeking indemnity (or exclusion or limitation of liability, as the case may be) or (ii) any member of that Party's or person's Group.
- (gg) **"Seller Taxes"** means any Taxes (i) imposed on capital gains or income arising from the transfer of the Unit pursuant to this Agreement or (ii) relating to the ownership or operation of the Unit to the extent attributable to taxable periods (or portions thereof) ending on or before the Closing Date; provided, however, no Tax shall be a Seller Tax pursuant to (ii) above to the extent attributable to or arising from any action (or failure to act) of the Buyer or its Affiliates and provided further that no Transfer Tax shall be a Seller Tax.
- (hh) **"Senior Managerial Personnel"** means any person employed by any member of the Buyer's Group or the Seller's Group as a director or other corporate officer or senior manager, being any manager (other than a director or other corporate officer) having ultimate responsibility for and authority over the conduct of operations performed under this Agreement and, in respect of the Buyer, shall also include any person acting as a Buyer Representative.
- (ii) **"Ship Recycling Facility"** means the ship recycling facilities operated by the Recycling Yard to be used by the Buyer for Recycling, which the Buyer represents and warrants are authorised for such purpose under all applicable laws, regulations and/or conventions and are designed, constructed, and operated in a safe and environmentally sound manner.
- (jj) **"Ship Recycling Facility Plan"** means a technical, operational and management plan for the safe and environmentally sound operation of the Ship Recycling Facility in accordance with the Applicable Ship Recycling Regime in force at the Breaking Location and the relevant guidelines developed or to be developed by the IMO, including:
 - (i) IMO Guidelines on Ship Recycling (A.962(23) (as amended by IMO Resolution A.980(24)));
 - (ii) IMO Guidelines for Safe and Environmentally Sound Ship Recycling (resolution MEPC.210(63)); and

- (iii) IMO Guidelines for the Authorization of Ship Recycling Facilities (resolution MEPC.211(63)).
- (kk) "**Ship Recycling Plan**" means a technical and operational plan for the safe and environmentally sound Recycling of the Unit and also including how the type and amount of materials in the Unit will be managed and disposed of (in accordance with the IMO 2011 Guidelines for the Development of the Ship Recycling Plan (resolution MEPC.196 (62)), any other relevant IMO guidelines developed or to be developed including IMO Guidelines on Ship Recycling (resolution A.962(23) (as amended by IMO resolution A.980(24)) and the Applicable Ship Recycling Regime in force at the Breaking Location.
- (ll) "**Statement of Completion**" means a written statement issued by the Buyer in the form set out in Schedule 3.
- (mm) "**Tax**" or "**Taxes**" means any and all federal, state, local, foreign and other taxes, charges, fees, duties, levies, tariffs, imposts, tolls, customs or other assessments, including all income, capital gains, gross receipts, sales, use, ad valorem, transfer, franchise, profits, branch profits, profit share, license, lease, service, service use, value added, withholding, payroll, employment, excise, estimated, severance, stamp, business, occupation, premium, property, windfall profits, wealth, net wealth, net worth, export and import fees and charges, registration fees, tonnage, vessel, alternative or add-on minimum tax, and any other taxes (including, for the avoidance of doubt, Transfer Taxes), fees, assessments, customs, duties, levies, tariffs, imposts, tolls, or charges of any kind whatsoever, whether computed on a separate, consolidated, unitary, combined or any other basis, imposed by any governmental authority together with any interests, penalties, inflationary adjustments, additions to tax, fines or other additional amounts imposed thereon or with respect thereto.
- (nn) "**Tax Return**" means any report, return, declaration, claim for refund, estimates, or information return or statement, including any schedule or attachment thereto, and including any amendment thereof, that is filed or required to be filed with any governmental authority in connection with any Tax.
- (oo) "**Total Loss**" has the meaning given in Article 10.
- (pp) "**Transfer Taxes**" means all excise, sales, use, transfer, value added, goods and services, harmonized sales, stamp, documentary, filing, recordation and other similar taxes arising from or in connection with the transfer of the Unit pursuant to this Agreement, together with any interest, penalties, inflationary adjustments, additions to tax, fines or other additional amounts imposed with respect thereto.
- (qq) "**Unit**" means the drilling unit "*MSS2*", registered in Liberia, Official No. 11821, with a gross tonnage of 10,958T (registered), together with (a) all machinery, engines, equipment, cables, pumps, tools, furniture, electrical, mechanical, or chemical, hydraulic and other systems, and (b) all bunkers, lubricants or other substance or Hazardous Materials in or on the Unit on the Closing Date (but excluding (i) any item of any kind which is not actually located on, incorporated in or attached to the drilling unit on the Closing Date, (ii) any

software pertaining to the Unit, and (iii) any manual or other document that has been developed by the Seller or an Affiliate of the Seller).

- (rr) "**United States Dollars**" (or "**US\$**") means the legal currency of the United States of America.
- (ss) "**Wilful Misconduct**" means any intentional wrongful act (or intentional wrongful failure to act) (whether sole, joint or concurrent) with actual knowledge that such act (or failure to act) is wrongful and with the sole intention to cause injury to a person or physical loss of or damage to property.

1.2. **Interpretation.** In this Agreement, unless the context otherwise requires:

- (a) Article headings are inserted for convenience of reference only and shall be ignored in the construction of this Agreement;
- (b) References to Articles and Schedules are to be construed as references to Articles of, and Schedules to, this Agreement and references to this Agreement include its Schedules;
- (c) The words "include", "includes" and "including" shall be deemed to be followed by the words "without limitation";
- (d) A reference to "law" or "regulation" includes any present statute, regulation, code, rule, directive, requirement, request, or guideline (whether or not having the force of law) of any government authority, central bank or any self-regulatory or other supra-national authority, including the IMO and the International Labour Organization, and a reference to "government authority" includes any national or local government body, tribunal, court or regulatory or other agency and any organisation of which such body, tribunal, court or agency is a part or to which it is subject, as well as to any future such "law" or "regulation" that becomes compulsorily applicable during the pendency of this Agreement;
- (e) The words "hereof," "herein," "hereto," and "hereunder" and words of similar import shall, unless otherwise expressly specified, refer to this Agreement as a whole and not to any particular portion or provision of this Agreement;
- (f) Words denoting the singular only shall include the plural and vice versa and words denoting a gender include every gender;
- (g) All references in this Agreement to contracts, agreements, and other documents shall be deemed to refer to such contracts, agreements and other documents as amended, modified and supplemented from time to time;
- (h) The indemnities, allocations of risk, limitations and/or exclusions of liability in this Agreement shall be given a wide interpretation in favour of the Seller's Group and the contra proferentem and ejusdem generis rules shall not in any case apply to the disadvantage of the Seller or any member of the Seller's Group. Where general words are used in any indemnities, allocations of risk, limitation and/or exclusion of liability provision in favour of the Seller or the Seller's Group, such words shall not be limited by the nature of this Agreement, or by the character or effect of any breach of contract, breach of

duty or any other act or omission (including negligence) alleged by the Buyer or any other person; and

- (i) References to any law or regulation are to be construed as references to any such statute or other legislative provision as the same may be re-enacted or amended or substituted by any subsequent statute or legislative provision (whether before or after the date hereof) and shall include any regulations, orders, instruments or other subordinate legislation issued or made under such statute or legislative provision.

2. **SALE AND PURCHASE**

- 2.1. The Seller hereby agrees to sell the Unit to the Buyer, and the Buyer hereby agrees to purchase the Unit from the Seller. The sale and purchase of the Unit is outright and definite subject only to the terms and conditions set forth in this Agreement.
- 2.2. The sale and purchase of the Unit pursuant to this Agreement is for the purpose of Recycling only. The Buyer unconditionally undertakes and warrants that:
 - (a) the Buyer shall not trade the Unit for its own account nor sell or charter the Unit to a third party for further trading; and
 - (b) the Unit shall be Recycled in accordance with Article 9.
- 2.3. The Parties agree that the lightweight of the Unit is ten thousand nine hundred and fifty-eight (10,958) long tonnes.

3. **CONSIDERATION**

- 3.1. **Sale Price.** Subject to the terms hereof, the aggregate purchase price (the "**Sale Price**") to be paid by the Buyer to the Seller for the Unit at Closing is [●] UNITED STATES DOLLARS (US\$[●]) (calculated on the basis of approximately US\$[●] per long tonne of the agreed lightweight of the Unit as stated in Article 2.3).
- 3.2. **Deposit.** As security for the fulfilment of this Agreement, the Buyer shall within seven (7) Business Days of the date hereof, pay to the Seller a deposit equal to ten percent (10%) of the Sale Price, namely, [●] UNITED STATES DOLLARS (US\$[●]), (the "**Deposit**") on terms that the Seller undertakes to refund the Deposit to the Buyer when the Seller is obligated to do so pursuant to this Agreement. The Deposit (together with any interest accrued thereon) shall be refunded to the Buyer only:
 - 1. If required pursuant to Article 7.3(a);
 - 2. If required pursuant to Article 7.3(c); or
 - 3. If required pursuant to Article 10.1.

Otherwise, the Deposit shall be non-refundable. If the Deposit is not paid in accordance with this Article 3.2, the Seller shall have the right to terminate this Agreement immediately by providing written notice to the Buyer.

- 3.3. **Closing Payment.** Upon Closing, the Buyer shall pay to the Seller an amount equal to the Sale Price less the Deposit (the "**Closing Payment**").

- 3.4. **Wire Instructions.** The Sale Price shall be paid to the Seller in United States Dollars in immediately available funds, in full, without any set-off or counterclaim whatsoever, free and clear of any deductions or withholdings, to the following bank account (the "**Seller's Bank Account**"):

[•]

Account name: [•]
Number: [•]
IBAN: [•]
IBAN BIC/SWIFT code: [•]
Sort code: [•]
Reference: [•]

or such other account as may be designated by the Seller in writing from time to time. The Buyer shall ensure that the reference above is included in its payment instructions.

- 3.5. In the event that the Closing Payment is not paid in accordance with the Buyer's obligation under this Agreement, the Seller shall have the right to terminate this Agreement immediately by providing written notice to the Buyer, in which case the Deposit (together with any interest accrued thereon) shall automatically be deemed to have been forfeited by the Buyer to the Seller. The Seller and the Buyer agree that the Deposit (together with any interest accrued thereon) represents a genuine and reasonable pre-estimate of the loss that the Seller would suffer in the event the Buyer fails to pay the Closing Payment in accordance with this Agreement. Such Deposit is not a penalty but liquidated damages for the Seller's loss of bargain. In such circumstances, (save for any Claims under Article 11.1) neither Party shall have any claim of whatever nature against the other.

4. **REPRESENTATIONS AND WARRANTIES**

- 4.1. **Disclaimer of Warranties, Conditions, Etc.** Notwithstanding anything else in this Agreement:

- (a) The Seller makes no representations or warranties as to what surveys, inspections or works may be required in connection with the Recycling of the Unit, or as to the contents, completeness, accuracy or otherwise of the Inventory of Hazardous Materials or the Marine Operations Manual extract referred to in Article 7.2(a)8.
- (b) The Parties agree that there is to be no dry-docking or underwater inspection of the Unit on or before delivery.
- (c) Except only as expressly stated in Article 4.3, the Buyer hereby acknowledges that the sale, purchase and delivery of the Unit shall be on an "AS IS, WHERE IS" basis, with all faults accepted by the Buyer (Regardless of Cause and notwithstanding that no inspection shall take place and that any faults or Hazardous Materials shall not have been discoverable by the Buyer or its contractors or disclosed by the Seller or its contractors on or before Closing), and that this Agreement and the sale and purchase of the Unit are WITHOUT ANY REPRESENTATION, WARRANTY, GUARANTY OR CONDITION, EXPRESSED OR IMPLIED, BY THE SELLER, AND THAT THE SELLER DOES NOT MAKE ANY

PROMISE (WHETHER BY WAY OF CONDITION, WARRANTY OR GUARANTY) OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE UNIT, INCLUDING AS TO SEAWORTHINESS, VALUE, DESIGN, MERCHANTABILITY, FITNESS OF THE UNIT OR ANY PART THEREOF FOR TOWAGE (OR OTHER TRANSPORTATION) AND RECYCLING, THE PRESENCE OR OTHERWISE OF HAZARDOUS MATERIALS IN OR ON THE UNIT, OR THE NATURE OR QUANTITY OF ANY SUCH HAZARDOUS MATERIALS, AND NOTWITHSTANDING ANYTHING ELSE CONTAINED IN THIS AGREEMENT THE BUYER HEREBY WAIVES AND AGREES TO WAIVE AS AGAINST THE SELLER AND ITS GROUP ALL CONDITIONS, WARRANTIES, CLAIMS, REMEDIES AND LIABILITIES ARISING BY LAW OR OTHERWISE, REGARDLESS OF CAUSE, WITH RESPECT TO THE UNIT.

- (d) As between the Seller and the Buyer, the execution by the Buyer of the Certificate of Acceptance shall be conclusive proof that the Unit is in full and complete compliance with all requirements of this Agreement (except only those expressly stated in Article 4.3).

4.2. **Buyer's Representations.** The Buyer hereby represents, covenants and warrants to the Seller the following:

- (a) The Buyer is duly incorporated and validly existing under the laws of its country of incorporation and has full legal right, power and authority to enter into this Agreement and to perform its obligations hereunder. The Buyer has power and authority to enter into and perform this Agreement and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized and no other corporate proceeding on the part of the Buyer is necessary to authorize the execution and delivery of this Agreement or to consummate the transactions contemplated hereby.
- (b) The execution or delivery of this Agreement and completion of all transactions contemplated hereby, will not either now, or after notice or lapse of time, or both:
 - 1. conflict with, violate, result in a breach or right of termination or acceleration under or require any consent or authorization under any of the terms, conditions or provisions of any mortgage, indenture, agreement, loan, guarantee, note, bond, permit, license, lease, grant, patent, or other undertaking or authorisation, written or oral, to or by which the Buyer is a party or is bound;
 - 2. conflict with, result in a breach of or require any consent under any of the terms, conditions or provisions of the Buyer's certificate of incorporation, by-laws or equivalent governing instruments; or
 - 3. result in a violation by the Buyer of any judgment, decree, order (including an executive order), award, writ, injunction or decree applicable to, or binding upon, the Buyer.
- (c) The Ship Recycling Facility is the yard owned and/or leased by the Recycling Yard at the MER Group Facility, Pier 3, Roosevelt Road, Ceiba, Puerto Rico.

- (d) The Ship Recycling Facility has the capacity and capability to Recycle within the period stated in Article 9.9 all materials listed in the Inventory of Hazardous Materials.
- (e) The Ship Recycling Facility has all required approvals, permissions and licences and is in compliance with all conditions and requirements under the Applicable Ship Recycling Regime in force at the Breaking Location for or in connection with the Recycling of the Unit.
- (f) This Agreement will be conducted in accordance with: (i) all applicable United States export and re-export controls and economic sanctions, including the International Emergency Economic Powers Act, the Export Administration Regulations and all other applicable economic sanctions laws and regulations, including the regulations set forth in 31 CFR Chapter V or other regulations enforced by the United States, the United Nations or the European Union; and (ii) other applicable economic sanctions and export control laws in other countries in which the Buyer does business. The Buyer warrants that it will obtain all licenses, approvals or other permissions and satisfy any conditions imposed by governmental authorities, including but not limited to customs authorizations/permissions as well as transit/import permits or licenses required by governmental authorities in the territories or countries in which the Buyer shall cause the Unit to be towed (or otherwise transported) from, to or through, in relation to and pursuant to this Agreement. The Buyer warrants and covenants that it will not transfer, export or re-export the items that are subject of this Agreement to: Iran, Sudan, Cuba, Syria, Libya or North Korea; entities owned or controlled by the governments of Iran or Sudan; any Cuban national, wherever located to the extent that such transfer, export or re-export is prohibited by any applicable United States export or re-export control or economic sanction; or any individual or entity included on the List of Specially Designated Nationals and Blocked Persons maintained by the US Treasury Department's Office of Foreign Assets Control.
- (g) The Buyer shall obtain all permits, exemptions, licenses, or other approvals required to import any Hazardous Materials under the Applicable Ship Recycling Regime, including but not limited to approval or exemption from the United States Environmental Protection Agency related to the importation into the United States of any Polychlorinated Biphenyls ("**PCBs**") present on the Unit. Buyer shall obtain all such necessary permits, exemptions, licenses, or other approvals no later than the Closing Date. In the event that the Buyer is unable to obtain any approval by the Closing Date, Seller may terminate this Agreement by providing written notice to the Buyer, in which case (i) the Deposit, together with any interest accrued thereon, shall be forfeited to the Seller and (ii) (save for any Claims under Articles 11.1 and 11.2) neither Party shall have any claim of whatever nature against the other.
- (h) The Buyer shall (and shall procure that the Buyer's Group shall) in connection with the performance of this Agreement:
 - 1. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including the United States Foreign Corrupt Practices Act of 1977 and the Bribery Act 2010;
 - 2. not engage in any activity, practice or conduct which would constitute an

offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom; and

3. promptly report to the Seller any request or demand for any undue financial or other advantage of any kind received by the Buyer in connection with the performance of this Agreement.

4.3. **Seller's Representations.** The Seller hereby represents, covenants and warrants to the Buyer the following:

- (a) The Seller is the legal and beneficial owner of the Unit;
- (b) At Closing, the Unit will be free of any and all Liens (other than Permitted Liens), including the Mortgage;
- (c) The Inventory of Hazardous Materials disclosed to the Buyer has been prepared by an Approved Hazardous Materials Surveyor;
- (d) The Seller is duly formed and validly existing under the laws of its country of formation and (i) the Seller has full legal right, power and authority to enter into this Agreement, and to perform its obligations hereunder, and (ii) the Seller has power and authority to enter into and perform this Agreement and the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorised. No other corporate proceeding on the part of the Seller is necessary to authorise the execution and delivery of this Agreement or to consummate the transactions contemplated hereby;
- (e) The execution or delivery of this Agreement and completion of all transactions contemplated hereby, will not either now, or after notice or lapse of time, or both:
 1. conflict with, violate, result in a breach or right of termination or acceleration under or require any consent or authorization under any of the terms, conditions or provisions of any mortgage, indenture, agreement, loan, guarantee, note, bond, permit, license, lease, grant, patent, or other undertaking or authorization, written or oral, to or by which the Seller is a party or is bound, except the Mortgage;
 2. conflict with, result in a breach of or require any consent under any of the terms, conditions or provisions of Seller's certificate of incorporation, by-laws or equivalent governing instruments; or
 3. result in a violation by the Seller of any judgment, decree, order (including an executive order), award, writ, injunction or decree applicable to, or binding upon, the Seller; and
- (f) The Seller shall (and shall procure that the Seller's Group shall) in connection with the performance of this Agreement:
 1. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including the United States Foreign Corrupt Practices Act of 1977 and the Bribery Act 2010;

2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom; and
3. promptly report to the Buyer any request or demand for any undue financial or other advantage of any kind received by the Seller in connection with the performance of this Agreement.

5. **CERTAIN COVENANTS**

- 5.1. **Buyer Representatives.** Subject to (i) the payment of the Deposit by the Buyer pursuant to Article 3.2 hereto, (ii) the Buyer and its appointed representative(s) (the "**Buyer Representative(s)**") signing the Seller's letters of indemnity in the forms set out in Schedule 4 to this Agreement, (iii) the Buyer providing the Seller with written evidence that the Buyer has procured suitable insurance (including waiver of subrogation in favour of the Seller's Group) to adequately cover the risk of injury to, illness or death of any Buyer Representatives, and (iv) the Buyer providing the Seller with advance notice of any visit and the intended scope of work for such visit, the Buyer Representative(s) shall have the right to board the Unit only during normal business hours at the Buyer's own cost, risk and liability up to three (3) calendar days prior to the Closing provided that no more than five (5) Buyer Representatives may board the Unit at any one time. In the event the Closing of the sale and purchase of the Unit does not take place for any reason, the Buyer shall immediately remove, at the Buyer's expense, any person the Buyer has placed on the Unit. Seller shall have the right to remove Buyer's Representatives for any reason and Buyer shall have the right to replace such Buyer Representatives at Buyer's cost.
- 5.2. The Buyer shall within seven (7) Business Days of the date of signing of this Agreement by both Parties, deliver to the Seller an undertaking, duly executed by the Recycling Yard, in the form of Schedule 1.

6. **CONDITIONS PRECEDENT**

- 6.1. **Buyer's Conditions Precedent to Closing.** The obligations of the Buyer to consummate the transactions to be performed by it in connection with the Closing are, in all respects, subject to the condition precedent that the representations and warranties of the Seller set forth in Article 4.3 shall be true and correct in all material respects as of the Closing Date with the same force and effect as if such representations and warranties had been made at and as of the Closing Date.
- 6.2. **Seller's Conditions Precedent to Closing.** The obligations of the Seller to consummate the transactions to be performed by it in connection with the Closing are, in all respects, subject to satisfaction (or waiver by the Seller) of the below-listed conditions precedent:
 - (a) The Buyer has paid the Sale Price in accordance with Article 3;
 - (b) The representations and warranties of the Buyer set forth in Article 4.2 shall be true and correct in all respects as of the Closing Date with the same force and effect as if such representations and warranties had been made at and as of the Closing Date;

- (c) The Buyer has delivered to the Seller an undertaking, duly executed by the Recycling Yard, in the form of Schedule 1; and
- (d) The Seller has obtained the Bankruptcy Court Authorization on or before 31 January 2017.

7. **CLOSING**

7.1. **Closing.** Subject to the other terms and conditions of this Agreement, the Seller shall sell and the Buyer shall purchase the Unit, and the Closing shall be held in Houston, Texas at the offices of the Seller or such other location as the Parties may agree. The Closing shall take place on a Business Day nominated in writing by the Seller (the "**Closing Date**"). The Seller shall provide the Buyer with five (5) calendar days' approximate notice and two (2) calendar days' definite notice of when the Seller intends to deliver the Unit. Closing shall take place in accordance with Article 8 on the Closing Date.

7.2. **Documents to be Delivered by Seller and Buyer.** On the Closing Date, representatives of the Seller and the Buyer shall meet as contemplated above for the purpose of completing the sale and purchase of the Unit.

(a) **Seller's Deliveries.** Subject to receipt of the Closing Payment, the Seller shall deliver to the Buyer the following in respect of the Unit simultaneously with the delivery of the items listed in Article 7.2(b):

1. Two original executed Bills of Sale for the Unit in a form acceptable for recording by the [•] registry (the "**Bill of Sale**") to be notarized [and (if necessary) apostilled and/or otherwise legalized]
2. A certified copy of a resolution of the board of directors of the Seller approving the terms of this Agreement and the transactions contemplated herein;
3. A Certificate of Good Standing of the Seller (or the equivalent document in the country of incorporation of the Seller);
4. A certified copy of a Certificate of Incumbency for the Seller (or the equivalent document in the country of incorporation of the Seller) showing a list of the current directors and officers of the Seller;
5. (If separate from the resolution referred to in Article 7.2(a)2 above) an original Power of Attorney of the Seller, duly notarised [and apostilled], authorising the Seller's appointed representatives to execute all necessary documents and take all necessary action in order to sell the Unit to the Buyer;
6. A certified copy of a Certificate of Ownership and Encumbrance for the Unit dated no more than ten (10) Business Days prior to the Closing Date reflecting that there are no mortgages, liens or other encumbrances recorded on the Unit;
7. A commercial invoice for the Unit marked "Paid in Full"; and

8. A copy of the extract from the Unit's Marine Operations Manual evidencing the Unit's lightweight.

(b) **Buyer's Deliveries.** The Buyer shall, simultaneously with delivery of the Unit as contemplated herein and the items set forth in Article 7.2(a), deliver to the Seller the following in respect of the Unit:

1. A receipt from the bank of the Buyer evidencing the irrevocable and unconditional transfer of the Sale Price to the Seller's Bank Account (provided that, for the avoidance of doubt, Closing shall not take place until the Sale Price has been received into the Seller's Bank Account);
2. A certified copy in English of a resolution of the board of directors of the Buyer approving the terms of this Agreement and the transactions contemplated herein;
3. A Certificate of Good Standing of the Buyer in English (or the equivalent documents in the country of incorporation of the Buyer);
4. Certified copy of a Certificate of Incumbency for the Buyer (or the equivalent document in the country of incorporation of the Buyer) showing a list of the current directors and officers of the Buyer with a certified translation in English;
5. A letter in English stating that the Buyer's representations, covenants and warranties made in Article 4.2 above are true and correct as of the Closing Date and will continue to be true and correct so long as applicable;
6. Original Power of Attorney in English of the Buyer, duly notarised and legalised, authorising the Buyer's appointed representatives to execute all necessary documents and take all necessary action in order to purchase the Unit from the Seller;
7. A copy of the Ship Recycling Facility Plan (if not previously provided by the Buyer);
8. A copy of the Ship Recycling Plan (if not previously provided by the Buyer);
9. A copy of the Buyer's contract with the Ship Recycling Facility (the price and payment terms may be redacted); and
10. Copies of all permits, exemptions, licenses, or other approvals required under Article 4.2(g).

7.3. **Outside Date.**

(a) In the event that the Closing does not occur on or before the Outside Date by reason of a breach of this Agreement by the Seller, the Buyer may terminate this Agreement by providing written notice to the Seller, in which case the Deposit, together with any interest accrued thereon, shall be returned to the Buyer as soon as practicable thereafter and (save for any Claims under Article 11.1) neither Party shall have any claim of whatever nature against the other.

(b) In the event that the Closing does not occur on or before the Outside Date by reason of a breach of this Agreement by the Buyer, the Seller may terminate this Agreement by providing written notice to the Buyer, in which case (i) the Deposit, together with any interest accrued thereon, shall be forfeited to the Seller and (ii) (save for any Claims under Article 11.1) neither Party shall have any claim of whatever nature against the other.

(c) In the event that the Seller is unable to obtain either: (i) the Bankruptcy Court Approval on or before 31 January 2017 or (ii) the release of the Mortgage on or before the Closing Date, the Buyer may terminate this Agreement by providing written notice to the Seller, in which case the Deposit, together with any interest accrued thereon, shall be returned to the Buyer as soon as practicable thereafter and (save for any Claims under Article 11.1) neither Party shall have any claim of whatever nature against the other.

8. **DELIVERY AND POST-CLOSING MATTERS**

8.1. Physical delivery and acceptance of the Unit shall take place when the Sale Price has been paid to the Seller in full and the deliveries referred to in Article 7.2 have taken place. Each Party shall acknowledge the delivery and acceptance of the Unit by executing and delivering the Certificate of Acceptance.

8.2. The Unit shall be delivered to the Buyer free from all Liens (other than Permitted Liens) at the Current Location. The risk of loss (subject to Articles 4.1(d) and 11.1), and title to the Unit, shall pass to the Buyer as of the Closing Time.

8.3. The Buyer shall take control of the Unit from the Closing Time.

8.4. The Parties acknowledge that, based on a further inspection of the Unit and/or preparation of the Unit for Recycling at the Ship Recycling Facility, the Ship Recycling Plan to be delivered by the Buyer hereunder may need to be updated prior to commencement of Recycling in accordance with the Applicable Ship Recycling Regime. In such event the Buyer shall submit a copy of the updated Ship Recycling Plan to the Seller before commencement of Recycling.

9. **SAFE AND ENVIRONMENTALLY SOUND RECYCLING**

9.1. The Buyer shall procure that the towage and Recycling of the Unit shall be performed in strict compliance with best industry standards and the Applicable Ship Recycling Regime.

9.2. The Buyer warrants that the Ship Recycling Facility has in place a health, safety and environment protection system that is compliant with the Applicable Ship Recycling Regime and shall promptly disclose to the Seller all such information and documents as the Seller may request in respect of such system and/or compliance.

9.3. The obligations of the Buyer under this Article 9 shall be implemented by the Buyer avoiding any: (i) environmental damage, loss or impact of any nature whatsoever; (ii) health and safety damage, loss or impact of any nature whatsoever to workers deployed during the Unit's Recycling; and (iii) any third party Claims relating to the Unit's Recycling, including to the disposal of Hazardous Materials.

- 9.4. The Buyer shall (and shall procure that each member of the Buyer's Group shall) perform all of their obligations under or in connection with this Agreement in compliance with all relevant industry standards and the Applicable Ship Recycling Regime.
- 9.5. The Seller reserves the right to appoint an independent third party contractor (the "**Contractor**") to monitor on behalf of the Seller the Recycling of the Unit after it has been delivered to the Ship Recycling Facility. For the avoidance of doubt no act or omission of the Contractor in connection with the monitoring of the Recycling of the Unit shall release the Buyer from any obligation under this Agreement.
- 9.6. The Buyer undertakes that, after the Closing Time, the Seller's representatives and, where a Contractor has been appointed, the Contractor's representatives shall be permitted access to the Ship Recycling Facility at any time to ascertain and/or audit that safe and environmentally sound practices are being conducted in respect of the Recycling of the Unit and that the Recycling of the Unit is being conducted in accordance with the Ship Recycling Facility Plan and the Ship Recycling Plan; provided, however, that the Buyer shall have the right to remove any such person from the Ship Recycling Facility for failure to comply with the Buyer's health, safety, security and environmental protocols.
- 9.7. The Buyer shall procure that:
- (a) administrative and office facilities (including, but not limited to a regularly cleaned and suitably air conditioned lockable office (with desk, chairs, filing, cabinet, telephone, telefax and internet connection) shall be made available to the Seller's representatives and, where a Contractor has been appointed, the Contractor's representatives at the Ship Recycling Facility until completion of Recycling of the Unit, and
 - (b) the Seller's representatives and, where a Contractor has been appointed, the Contractor's representatives are authorised by the Ship Recycling Facility to have full access to the Ship Recycling Facility and to carry out audit, control and revision of the Ship Recycling Plan as and when deemed necessary by the Seller's representatives.
- 9.8. Should the Seller's representatives and/or, where a Contractor has been appointed, the Contractor's representatives observe a material non-compliance with the Ship Recycling Facility Plan and/or the Ship Recycling Plan, the Seller's representatives and/or, where a Contractor has been appointed, the Contractor's representatives may notify the Buyer in writing of such non-compliance. If the Buyer fails to rectify all non-compliance to the Seller's satisfaction within two (2) Business Days of receipt of such notification from the Seller and/or, where a Contractor has been appointed, the Contractor's representatives, the Parties hereby agree that: (i) the Seller and the Buyer shall promptly meet to discuss the non-compliance; and (ii) the Buyer shall prepare an amendment to the Ship Recycling Plan to address the non-compliance and submit such amendment to the Seller for approval, which approval shall not be unreasonably withheld.
- 9.9. The Buyer shall procure that Recycling of the Unit shall be completed within twelve (12) calendar months after Closing. The Buyer shall within two (2) weeks of completion of Recycling of the Unit provide the Seller with a Statement of Completion.

10. **TOTAL LOSS.**

10.1. If during the period between the date of this Agreement and the Closing Time, there is an actual total casualty loss, constructive total casualty loss or compromised total casualty loss (collectively, a "**Total Loss**") of the Unit, (i) this Agreement shall terminate, (ii) the Deposit (together with any interest thereon) shall be returned to the Buyer (unless the Total Loss was caused by any member of the Buyer's Group), and (iii) (save in relation to Claims under Article 11.1), neither Party shall have any further claim of whatsoever nature against the other.

11. **INDEMNITY AND LIABILITY**

11.1. **Buyer's Indemnities.** The Buyer shall defend, release, indemnify and hold harmless the Seller's Group from and against all Claims which arise directly or indirectly out of or in connection with:

- (a) injury to, illness or death of any member of the Buyer's Group;
- (b) loss of or damage to the property of any member of the Buyer's Group (including the Unit on or after the Closing Time);
- (c) loss or damage caused by the Tug(s);
- (d) the presence of any member or invitee of the Buyer's Group on the Unit;
- (e) the Unit after the Closing Time and/or the Recycling of the Unit, including without limitation all Claims relating to pollution, contamination or any similar occurrence;
- (f) any breach by the Buyer of any of the representations, warranties, covenants or agreements set forth in this Agreement; and/or
- (g) any breach of any of the Buyer's obligations to comply with the laws of the Applicable Ship Recycling Regime, including but not limited to any fine, penalty, cost or sanction arising out of or resulting from the violation of any federal, state, or local law governing the import, handling, storage, removal, transportation, or disposal of any hazardous or toxic substance.

11.2. **Seller's Indemnities.** Subject to Article ,11.1 above and the other provisions of this Agreement, including Articles 4.1 and 12, and subject to any letters of indemnity which may be given pursuant to Article 5.1, the Seller shall release, indemnify, defend and hold harmless the Buyer's Group from and against all Claims which arise directly or indirectly out of or in connection with :

- (a) injury to, illness or death of any member of the Seller's Group;
- (b) loss of or damage to the property of any member of the Seller's Group (including the Unit before the Closing Time); and/or
- (c) any breach by the Seller of any of the representations, warranties, covenants or agreements set forth in this Agreement.

11.3. **General Indemnity and Liability Provisions.**

- (a) **Indemnification Notices for Claims.** If any indemnified party is seeking indemnification under this Agreement from an indemnifying party, the indemnified party shall give prompt written notice of the claim to the indemnifying party describing in reasonable detail the nature of the claim, an estimate of the loss or damages attributable to the claim (which estimate will not be conclusive or binding) and the basis for the indemnified party's request for indemnification hereunder.
- (b) **Attorney's Fees.** Indemnified parties shall be entitled to reasonable attorneys' fees incurred in asserting or enforcing the indemnities granted herein.

12. **TAXES AND FEES**

12.1. **Indemnification for Taxes.**

- (a) Except as otherwise contemplated by Article 12.2(a), the Seller shall, without duplication under this Agreement, indemnify, defend and hold the Buyer and its Affiliates harmless from and against and in respect of all Seller Taxes.
- (b) The Buyer shall, without duplication under this Agreement, indemnify, defend and hold the Seller and its Affiliates harmless from and against and in respect of all Buyer Taxes.
- (c) To the extent that Seller receives a refund or credit of any Buyer Taxes or the Buyer receives a refund or credit of any Seller Taxes, the Seller or the Buyer, as applicable, shall, without duplication under this Agreement, promptly pay over to the other Party the amount of such refund or credit.

12.2. **Withholding and Transfer Taxes.**

- (a) The Buyer shall be entitled to deduct and withhold Taxes required by any governmental requirements to be withheld on payments to be made to the Seller pursuant to this Agreement. To the extent any amounts are so withheld, the Buyer shall (i) pay, in addition to the amount otherwise due under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by the Seller will equal the full amount the Seller would have received had no such deduction or withholding been required, (ii) pay such deducted and withheld amount to the proper governmental authority, and (iii) promptly provide to the Seller evidence of such payment to such governmental authority.
- (b) Without prejudice to Article 12.2(a) above, the Party required by applicable governmental requirements to file any Tax Return with respect to Transfer Taxes and pay any such Transfer Taxes to the applicable governmental authority shall prepare and file or cause to be prepared and filed all such Tax Returns and remit such Transfer Taxes to any such governmental authority.

13. **CHOICE OF LAW AND VENUE**

- 13.1. **Choice of Law.** This Agreement (and any non-contractual obligations which may arise out of or in connection with it) shall be governed by and construed in

accordance with English law, without regard to its rules of conflict of laws that would require the application of laws of a different jurisdiction.

13.2. **Arbitration.**

- (a) Any dispute arising out of or in connection with this Agreement (including a dispute relating to non-contractual obligations), including, but not limited to, a dispute regarding its existence, validity, interpretation, terms and conditions, parties' performance (or non-performance) or termination or the consequences of its nullity shall be settled by arbitration in London. The language of the arbitration shall be English. The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association Terms (LMAA) current at the time when the arbitration proceedings are commenced.
- (b) Save as set out below, the reference shall be to three (3) arbitrators; one to be appointed by each of the Parties hereto and the third to be appointed by the two so chosen. A Party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so (such notice identifying their appointed arbitrator) within the fourteen (14) days specified. If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement. Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.
- (c) In cases where neither the claim nor any counterclaim exceeds the sum of US\$50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.
- (d) Each Party irrevocably agrees that the other may appeal to the High Court of England and Wales, and thereafter, with leave if granted, to the Court of Appeal and to the Supreme Court, on any question of law arising out of any award made by the tribunal in the course of the arbitral process.

14. **COST OF THE TRANSACTION; AGENCY FEES**

- 14.1. Whether or not the transactions contemplated hereby shall be consummated, the Parties agree that each Party will pay the fees, expenses and disbursements of such Party and its agents, representatives, and counsel incurred in connection with the negotiation of this Agreement.
- 14.2. All expenses directly relating to the Unit prior to the Closing Time including port charges, agency fees, customs clearance at the Current Location and insurance, but always excluding expenses in connection with the Buyer's obligations under this Agreement (including but not limited to the towage of the Unit), shall be for the

Seller's account.

- 14.3. Any and all brokers commissions that are due, if any, shall be paid by the party that retained such broker.

15. **NOTICES**

- 15.1. All notices and other communications ("**Notices**") under this Agreement shall be in writing and shall be marked for the attention of the person, and sent to the address, or email address, given in this Article 15 (or such other address, email address or person as the recipient may notify the other party in accordance with the provisions of this Article 15) and shall be delivered personally, or sent by international courier service or by electronic mail.

- 15.2. A Notice shall be deemed to have been given:

- (a) if delivered personally, at the time of delivery; or
- (b) in the case of delivery by international courier service, two (2) Business Days after being delivered into the custody of such service; or
- (c) in the case of a delivery by electronic mail, at the time of receipt of confirmation of delivery; and

if deemed receipt under the previous paragraphs of this Article 15.2 is not within business hours of the place of receipt (meaning 9 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), when business next starts in the place of receipt. To prove service it is sufficient to prove, in the case of international courier service, that the envelope containing the notice was properly addressed and delivered to the courier company or, in the case of email, that the sender received a relay notification.

- 15.3. The addresses for service of Notice are:

Seller:

Paragon Drilling Services 7 LLC
3151 Briarpark Drive
Suite 700
Houton, Texas 77042
Attn: Lee M. Ahlstrom
E-Mail: lahlstrom@paragonoffshore.com

with copies to:

Paragon Offshore Services LLC
3151 Briarpark Drive
Suite 700
Houton, Texas 77042
Attn: Legal
E-Mail: rtarkington@paragonoffshore.com

Buyer:

[•]
Attn: [•]
E-Mail: [•]

with copies to:

[•]

16. **ENTIRE AGREEMENT**

16.1. This Agreement constitutes the entire agreement between the Parties and supersedes any arrangement, understanding or previous agreement between them relating to the subject matter it covers. Each Party acknowledges that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, assurance, warranty or promise of any person other than as expressly set out in this Agreement. Nothing in this Article 16 operates to limit or exclude any liability for fraud.

17. **EMPLOYEES**

17.1. The Buyer undertakes that neither it nor any of its Affiliates shall solicit any employees of the Seller or its Affiliates without the prior written consent of the Seller.

17.2. Solicitation by the Buyer or any Affiliate thereof by way of a general newspaper advertisement or other general solicitation that does not specifically target an employee or group of employees of the Seller or an Affiliate thereof shall not be considered a violation of Article 17.1 above.

18. **PUBLICITY**

18.1. Unless the Buyer has obtained the prior written consent of the Seller or the Seller has already publicly disclosed the information that the Buyer intends to disclose, the Buyer agrees to treat as confidential all documents and other information which it may obtain in connection with this Agreement and shall not make any broadcast, press release, advertisement, public disclosure or other public announcement or statement with respect to this Agreement, including the Sale Price, the Unit or any of the terms or conditions hereof, unless required by law or the rules of any stock exchange. For the avoidance of doubt, the Seller or its Affiliates may disclose such information without the Buyer's prior written consent in the public reports of Paragon Offshore plc to the extent the Seller or its Affiliates believe that it is necessary or prudent to do so.

18.2. Unless the Seller has obtained the prior written consent of the Buyer or the Buyer has already publicly disclosed the information that the Seller intends to disclose, the Seller agrees to treat as confidential all documents and other information which it may obtain in connection with this Agreement and shall not make any broadcast, press release, advertisement, public disclosure or other public announcement or statement with respect to this Agreement, including the Sale Price, the Unit or any of the terms or conditions hereof, unless required by law or the rules of any stock exchange.

19. **GENERAL**

19.1. All of the indemnities, allocations of risk, limitations and exclusions of liability contained in Article 11 or elsewhere in this Agreement in favour of the Seller or the Seller's Group shall apply (to the fullest extent permitted under English law) Regardless of Cause.

19.2. In no event shall either the Seller, on the one hand, or the Buyer, on the other, be liable to the other (or to any other party claiming indemnification hereunder) for any Claims in respect of:

(a) any of the following losses or matters (whether direct or indirect and whether foreseeable or not): (i) loss of use or limited use, (ii) loss of bargain, loss of revenue, profit or anticipated profit, (iii) delay, cessation or interruption of any operations or business, (iv) hire and other charges payable in connection with the hire of vessels, or the supply of equipment or services and the costs of keeping vessels, personnel and equipment on contract, or the suspension or early termination of such contracts, and/or (v) other similar losses or matters; and/or

(b) any indirect or consequential losses whatsoever;

provided that nothing in this Article shall be taken to exclude or otherwise limit (A) any right the Seller may have under this Agreement to retain the Deposit and/or (B) any right under Article 11.1.

19.3. The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect the continuation in force of the remainder of this Agreement. The Parties agree to substitute for any invalid, illegal or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid, illegal or unenforceable provision.

19.4. The Buyer shall not assign or transfer any of its rights and obligations under this Agreement except with the prior written consent of the Seller and subject to such terms and conditions as the Seller may require. Notwithstanding the foregoing restriction, the Buyer is free to assign and/or transfer rights and obligations to other members of the Buyer's Group as defined in this Agreement, subject to the prior written consent of the Seller, whose consent shall not be unreasonably withheld.

19.5. Save as provided in Articles 4.1(c), 11 and 12, this Agreement is made for the benefit of the Parties and their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

19.6. No amendment or addition to this Agreement shall be valid unless agreed in writing by each of the Parties hereto.

19.7. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all of which shall together constitute one and the same instrument.

19.8. The provisions of Articles 3.5, 4.2, 7.3, 8-19 and any other provisions which, due to their nature should reasonably be expected to survive, shall survive any termination of this Agreement.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in multiple originals by their duly authorized officers, all on the day and year first above written.

Paragon Drilling Services 7 LLC

MER Group Puerto Rico LLC

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Schedule 1

**Form of undertaking to be executed and delivered by
[•]**

To: [•]

[Date]

Dear Sirs

[•]

We refer to the Agreement for Sale and Recycling dated [•] (the "**Agreement**", which expression shall include the same as varied or supplemented from time to time) between [•] (the "**Seller**") and [•] ("**Buyer**") regarding the sale by the Seller and purchase by the Buyer of the semi-submersible drilling unit "[•]".

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, we, [•] (the "**Recycling Yard**"), hereby unconditionally and irrevocably undertake to the Seller that we shall comply with the provisions of Articles 9 (*Safe and Environmentally Sound Recycling*) and 11.1 (*Buyer's Indemnities*) of the Agreement, in the same way as if the references therein to the Buyer were read as references to the Recycling Yard.

Article 13 (*Choice of Law and Venue*) of the Agreement shall apply to this letter, in the same way as if references therein to the Agreement and the Parties were read as references respectively to this letter and to the Seller and Recycling Yard.

Yours faithfully

Signed for and on behalf and with the authority of
[•]

.....

Authorised signatory

Schedule 2

Certificate of Acceptance of Delivery

We, the undersigned, [•], a company organized and existing under and by virtue of the laws of [•] (the "**Seller**"), declare to have delivered, and we, the undersigned, [•], a company organized and existing under and by virtue of the laws of [•] (the "**Buyer**"), declare to have accepted, in accordance with the terms and conditions of an Agreement for Sale and Recycling dated [•] by and between the Buyer and the Seller (the "**Agreement**"), the "[•]", together with all equipment to be delivered with it, all as more particularly described in the Agreement at ____ a.m./p.m. [•] time on this _____ day of _____ 201[•].

[•]

[•]

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Schedule 3

STATEMENT OF COMPLETION OF SHIP RECYCLING

**PURSUANT TO AN AGREEMENT FOR SALE OF A MOBILE OFFSHORE
DRILLING UNIT FOR DEMOLITION AND RECYCLING
MADE BETWEEN [•] AND [•]
DATED [•] (THE "AGREEMENT")
IN RESPECT OF "[•]" (THE "UNIT")**

Terms defined in the Agreement have the same meaning in this Statement of Completion.

THIS CONFIRMS THAT the Unit has been Recycled in accordance with the Ship Recycling Plan at [•] in the [•] and the Recycling of the Unit as required by the Agreement was completed on [*here insert date*].

Issued at [*here insert place of issue*] on [*here insert date of issue*]

(*Signature of [•] or a representative acting on behalf of [•]*)

Schedule 4

Letter of Indemnity

TO: [•]

Dear Sirs,

"[•]" (the "Unit")

We hereby agree that attendance on board the Unit by our representatives is at our sole risk and expense. Further, in consideration of your allowing our representatives [•] and [•] to attend on board the Unit, we undertake and confirm that [•] and [•] will at all times be covered fully by applicable insurance policies placed by ourselves and we further undertake to make no claim of any nature whatsoever against you (or your related companies or your or their employees or agents or your insurers), whether or not such claim be occasioned by your or their negligence, act, omission or default of any degree.

We further undertake to indemnify you (and your related companies and your and their employees and agents and your insurers) against any claims whatsoever (including death), liabilities, loss, damage, costs and/or expenses which you (and them) may incur, suffer or be put to arising out of any act, negligence, omission or default of any degree by [•] and [•] whilst on board the Unit.

In addition, we undertake to indemnify you (and your related companies and your and their employees and agents and your insurers) and insure you (and them) against claims of any kind which may be made by [•] and [•] or their relations or representatives, whether or not such claims be occasioned by your or their negligence, act, omission or default of any degree.

This Letter of Indemnity is to be construed in accordance with English law and any disputes arising hereunder are subject to Article 13 of the Agreement for Sale and Recycling between us dated [•] with respect to the sale and purchase of the Unit.

Yours faithfully,

for and on behalf of
[•]

Waiver, Release and Indemnity Agreement *[to be signed by individuals]*

In consideration for permitting me, *[individual's name]*, to work on the "[●]", I hereby voluntarily release, discharge, waiver and relinquish any and all actions or causes of action for any personal injury, property damage, or wrongful death occurring to me or arising as a result of engaging in said activity, any activity incidental thereto wherever or however the same may occur, I, for myself, my heirs, executors, administrators and assigns hereby, release, waiver, discharge, and relinquish, any action or cause of action, aforesaid, which may hereafter arise for me and my estate, and agree that under no circumstance will I or my heirs, executor, administrators, and assigns, prosecute [●], its related companies, its insurers or its or their directors, officers, employees or agents for any said causes of action whether the same shall arise by the negligence of any degree of said persons or otherwise.

IT IS MY INTENTION BY THIS INSTRUMENT TO EXEMPT AND RELEASE [●], ITS RELATED COMPANIES, ITS INSURERS AND ITS AND THEIR DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM ALL LIABILITY FOR PERSONAL INJURY, PROPERTY DAMAGE, OR WRONGFUL DEATH CAUSED BY NEGLIGENCE.

This Waiver, Release and Indemnity Agreement is governed by and shall be construed in accordance with English law and any disputes arising hereunder shall be subject to the exclusive jurisdiction of the English courts.

Participant
Date

Witness
Date

Exhibit B

Osmun Declaration

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
: **Chapter 11**
: **Case No. 16-10386 (CSS)**
: **(Jointly Administered)**
:
:
:
:
:
----- X

In re
PARAGON OFFSHORE PLC, et al.

Debtors.¹

DECLARATION OF THOMAS B. OSMUN IN SUPPORT OF DEBTORS’ MOTION FOR AUTHORIZATION TO SELL THE PARAGON MSS2 FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS TO MER GROUP PUERTO RICO LLC PURSUANT TO AN AGREEMENT FOR SALE AND RECYCLING

I, Thomas B. Osmun, under penalty of perjury, declare as follows:

1. I am a Managing Director at AlixPartners, LLP (“**AlixPartners**”), which maintains an office at 909 Third Avenue New York, NY 10022. On April 4, 2016, AlixPartners was approved as restructuring advisor to Paragon Offshore plc and its affiliated debtors and debtors in possession (collectively, “**Paragon**” or the “**Debtors**”) in the above-captioned cases, *nunc pro tunc* to February 14, 2016 (the “**Petition Date**”).

2. I submit this declaration (the “**Declaration**”) in support of the *Debtors’ Motion for Authorization to Sell the Paragon MSS2 Free and Clear of all Liens, Claims, Encumbrances,*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Paragon Offshore plc (6017); Paragon Offshore Finance Company (6632); Paragon International Finance Company (8126); Paragon Offshore Holdings US Inc. (1960); Paragon Offshore Drilling LLC (4541); Paragon FDR Holdings Ltd. (4731); Paragon Duchess Ltd.; Paragon Offshore (Luxembourg) S.à r.l. (5897); PGN Offshore Drilling (Malaysia) Sdn. Bhd. (9238); Paragon Offshore (Labuan) Pte. Ltd. (3505); Paragon Holding SCS 2 Ltd. (4108); Paragon Asset Company Ltd. (2832); Paragon Holding SCS 1 Ltd. (4004); Paragon Offshore Leasing (Luxembourg) S.à r.l. (5936); Paragon Drilling Services 7 LLC (7882); Paragon Offshore Leasing (Switzerland) GmbH (0669); Paragon Offshore do Brasil Ltda.; Paragon Asset (ME) Ltd. (8362); Paragon Asset (UK) Ltd.; Paragon Offshore International Ltd. (6103); Paragon Offshore (North Sea) Ltd.; Paragon (Middle East) Limited (0667); Paragon Holding NCS 2 S.à r.l. (5447); Paragon Leonard Jones LLC (8826); Paragon Offshore (Nederland) B.V.; and Paragon Offshore Contracting GmbH (2832). The Debtors’ mailing address is 3151 Briarpark Drive, Suite 700, Houston, Texas 77042.

and Other Interests to MER Group Puerto Rico LLC Pursuant to an Agreement for Sale and Recycling (the “**Motion**”). Except as otherwise indicated, all facts set forth in this Declaration are based on my personal knowledge, my discussions with other members of the Debtors’ management and the Debtors’ advisors, my review of relevant documents, or my opinion based on my experience, knowledge, and information concerning the Debtors’ operations and financial condition. If called to testify, I would testify competently to the facts set forth in this Declaration. I am authorized to submit this Declaration on behalf of the Debtors.

3. Pursuant to that certain *Agreement for Sale and Recycling* in substantially the form attached to the Proposed Order (as defined in the Motion) as **Exhibit 1** (the “**Agreement**”), Paragon Drilling Services 7 LLC (the “**Seller**”) has negotiated an agreement, conditioned upon this Court’s approval, to sell the Paragon MSS2, including related assets (collectively, the “**MSS2**” or the “**Rig**”), to MER Group Puerto Rico LLC (the “**Buyer**”), a scrapping facility, free and clear of all liens, claims, encumbrances, and other interests (the “**Sale**”).

4. I believe that the Debtors’ decision to sell the MSS2 on the terms set forth in the Agreement reflects a reasonable exercise of their business judgment and is in the best interests of the Debtors’ estates. At approximately 40 years old, the MSS2 is at the end of its useful life. The MSS2 must be refurbished prior to being placed back into service. The Debtors estimate that the required survey and various repair work to refurbish the Rig would cost between \$44 million and \$58 million, an investment that I and the Debtors’ management do not believe to be worthwhile or prudent at this time.

5. Further, the MSS2 is currently cold-stacked at the MER Group Facility, Pier 3, Roosevelt Road, Ceiba, Puerto Rico (the “**MER Facility**”). It has not generated any revenue since the Debtors’ contract for drilling services with Petróleo Brasileiro S.A. (“**Petrobras**”)

terminated in April 2016. It currently costs the Debtors approximately \$102,000 per month, to stack the Rig, an expense that the Debtors will avoid by selling the Rig. In addition, the Sale will also provide the Debtors with proceeds of over \$200,000.

6. Although the Debtors' current Business Plan contemplates that the Debtors will scrap the MSS2 in February 2017, the Debtors now seek to seize an opportunity to sell the MSS2 before January 31, 2017. On that date, the Debtors' docking agreement with the MER Facility is set to expire. Upon expiration of the docking agreement, the Debtors can be forced to remove the MSS2 from the MER Facility. It would cost the Debtors approximately \$300,000 to transport the Rig to an interim docking location in Puerto Rico, and the Debtors would incur incremental costs to transport the Rig from the interim docking location to a future buyer. When taking docking fees into account, the incremental costs associated with moving the Rig upon termination of the docking agreement can total approximately \$700,000. Moreover, this calculation assumes that the Debtors could sell the Rig to another buyer in Puerto Rico. Should the Debtors be forced to sell the Rig to a buyer outside of Puerto Rico, transportation costs would increase significantly. By selling the Rig to the MER Facility prior to January 31, 2017, the Debtors hope to avoid these unnecessary and burdensome costs.

7. I also believe that the Debtors' decision to sell the MSS2 for its scrap value, and not as a going concern, is a valid exercise of their business judgment. It is highly unlikely that the Rig has much going concern value, if any, because (i) the Rig is nearly 40 years old and any prospective buyer would likely have to invest at least \$44 million – and potentially up to \$58 million – to refurbish the Rig and place it back into service; (ii) semisubmersibles perform very specialized drilling services in very specific locations, reducing demand for the MSS2; and (iii) the substantial costs attendant to moving the Rig to a new drilling location make the Rig less

attractive to potential buyers. Indeed, when the Debtors' contract with Petrobras expired in April 2016, the Debtors were unable to locate work for the Rig. Instead, the Debtors transported the Rig to the most cost-effective location, the MER Facility in Puerto Rico, while still attempting to obtain contracts for the Rig.

8. The Debtors' decision to sell the MSS2 to the MER Facility – and not to another party for scrapping – is a valid exercise of the Debtors' business judgment. As discussed above, transporting the Rig to another facility in Puerto Rico would cost approximately \$300,000. The Sale Price that the Debtors are receiving from the Buyer, approximately \$200,000, is based upon fairly standardized and transparent scrapping prices. I do not believe that the Debtors could have obtained the higher sale price necessary to cover the transportation costs and provide them with the approximately \$200,000 in proceeds that they are currently obtaining.

9. Accordingly, I believe that the Sale is an exercise of the Debtors' reasonable business judgment, is in the best interest of their estates and creditors, and should be approved.

10. The Debtors did not conduct an auction for the MSS2. Given the MSS2's advanced age, the specialized type of drilling services that semisubmersibles perform, the cost to refurbish the Rig, and the costs associated with moving the Rig to a new location, I believe that there is very little market demand, if any, for the MSS2. In fact, upon expiration of the Petrobras contract, the Debtors have been unable to find work for the Rig. Therefore, the Debtors will sell it to the MER Facility for its scrap value, instead of selling it as a going concern. As discussed above, the Debtors determined it was most cost effective to sell the Rig to the MER Facility where it is currently located. Incremental transportation costs render it uneconomical to transport the Rig to any alternative scrapping facility, even if that facility is nearby. The Debtors negotiated the Agreement and Sale Price at arms' length with the Buyer. Accordingly, I believe

that the Debtors' decision to sell the MSS2 to the Buyer for the Sale Price without an auction is supported by the Debtors' business judgment and should be approved.

[Remainder of Page Intentionally Left Blank]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 17, 2017
New York, New York

A handwritten signature in cursive script, reading "Thomas B. Osmun", written over a horizontal line.

Thomas B. Osmun
Managing Director
AlixPartners, LLP