

## NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (this “Confidentiality Agreement”) made this \_\_\_\_ day of \_\_\_\_\_, 2020

### BETWEEN:

**FTI Consulting Canada Inc.,**  
solely in its capacity as Court appointed receiver and manager of Debtor  
and not in its personal or corporate capacity  
(the “Receiver”)

-and-

\_\_\_\_\_  
a corporation incorporated in the Province of \_\_\_\_\_  
(“Recipient”)

### RECITALS:

- A. The Recipient is desirous of evaluating a possible transaction with, or involving, the Property and/or the Debtor and, as such, has obtained access to and/or will from time to time hereafter obtain access to certain Confidential Information relating to the Property and/or the Debtor (the “Transaction”).
- B. The Confidential Information will be received and used by the Recipient for the sole purpose of conducting due diligence in relation to the Transaction.

**NOW THEREFORE** in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Recipient and the Receiver (each, a “Party” and collectively, the “Parties”) hereby agree as follows:

- 1. Unless the context otherwise requires, terms used in this Confidentiality Agreement, including terms used in the Recitals to this Confidentiality Agreement, shall have the meaning defined below:
  - (a) “Affiliate” means:
    - (i) a Person that controls the Recipient;
    - (ii) a Person that is controlled by the Recipient;
    - (iii) a Person that is under the common control of the Recipient and another Person; or
    - (iv) a Person that controls the Recipient with another Person;
  - (b) “Confidential Information” means any and all information disclosed or to be disclosed to the Recipient or any of its Representatives by the Receiver concerning

or related to the Property, the Debtor or any customer or supplier to the Debtor, whether provided before, on or after the date of this Confidentiality Agreement, including not only information transmitted in written, electronic or other form, but also information transmitted orally, visually or by any other means and any and all information which may be developed or created, in whole or in part, directly or indirectly, from such information, but shall not include:

- (i) any information that is, as of the date of this Confidentiality Agreement, in the public domain, other than as a result of its disclosure by the Recipient, any of the Representatives or any other Person under an obligation of confidentiality to the Receiver or the Debtor;
  - (ii) any information that, after the date of this Confidentiality Agreement, becomes part of the public domain through no fault of the Recipient or any of its Representatives;
  - (iii) any information that the Recipient can prove was in its possession prior to the date of this Agreement and was not acquired by the Recipient directly or indirectly from the Receiver or any other Person known by the Recipient to be under an obligation of confidentiality to the Receiver or the Debtor; and
  - (iv) any information that the Recipient can prove was developed independently and without the use of any of the Confidential Information provided by the Receiver or any other Person known by the Recipient to be under an obligation of confidentiality to the Receiver or the Debtor;
- (c) **“Control”** means the ability to directly or indirectly (including through one or more Affiliates) direct the management or policies of a Person and, without limiting the generality of the foregoing, includes the ability to control through:
- (i) the legal or beneficial ownership of voting securities, units or other interests in such Person;
  - (ii) the right or ability to appoint or elect officers, managers, executives, or a majority of the directors of such Person; or
  - (iii) a contract, agreement, voting trust or otherwise;
- and derivatives of control such as “controls” and “controlled” have meanings corresponding to the definition of control;
- (d) **“Debtor”** means Raptor Rig Ltd.;
  - (e) **“Personal Information”** means information about an identifiable individual;
  - (f) **“Person”** includes, without limitation, individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and governmental organizations;

- (g) **“Property”** has the meaning ascribed to it in the Receivership Order, as may be amended, supplemented or restated from time to time;
  - (h) **“Receivership Order”** means the Consent Order issued by the Court of Queen’s Bench of Alberta in the Receivership Proceedings on August 10, 2020; and
  - (i) **“Receivership Proceedings”** means Court of Queen’s Bench of Alberta Action No. 2001-09604;
2. Subject to Section 14 of this Confidentiality Agreement and in connection with the evaluation of the Transaction, the Receiver agrees to provide the Recipient with Confidential Information, or access thereto, pursuant to and in accordance with the terms of this Confidentiality Agreement, provided however that nothing in this Confidentiality Agreement obligates the Receiver to disclose any particular Confidential Information.
  3. The Recipient will keep the Confidential Information strictly confidential and will not use the Confidential Information directly or indirectly for any purpose other than evaluating the Transaction. Except as otherwise specified herein, the Recipient will not directly or indirectly use, disclose, publish, allow access to, transmit or transfer the Confidential Information or any portion thereof to any Person without the Receiver’s prior written consent. The Recipient shall establish and maintain reasonable security measures to safeguard the Confidential Information from unauthorized access, use, copying, disclosure, damage or destruction and shall take reasonable steps to enforce the confidentiality obligations under this Confidentiality Agreement.
  4. The Recipient may disclose Confidential Information to the Recipient’s officers, directors, employees, accountants, auditors, and legal, commercial, and financial advisors (collectively, the **“Representatives”**) who the Recipient determines require the Confidential Information for the purposes of evaluating the Transaction and on a strictly need to know basis. Prior to disclosing the Confidential Information to any Representatives, the Recipient shall issue appropriate instructions to such Representatives to satisfy the Recipient’s obligations herein and obtain such Representative’s agreement to receive and use the Confidential Information on a confidential basis on the same conditions as contained in this Confidentiality Agreement and to otherwise comply with the terms hereof. At the request of the Receiver, the Recipient shall promptly provide a list containing the full name, title, location and function of each Person having access to or copies of the Confidential Information.
  5. The Recipient shall be liable and responsible for any breach of any term of this Confidentiality Agreement by a Representative, and agrees that an injunction is appropriate relief that should be granted by a court, as the harm that will be suffered in the case of any breach is irreparable, and monetary damages alone are not fully adequate to address any losses occasioned by a breach of any term of this Confidentiality Agreement.
  6. The Recipient will not, without the Receiver’s prior written consent, disclose to any Person the fact that the Confidential Information has been made available, that discussions or negotiations are taking place or have taken place concerning a possible Transaction or any of the terms, conditions or other facts with respect to any such possible Transaction, including the status thereof.

7. Without the prior written consent of the Receiver, for a period of one (1) year from the date of this Confidentiality Agreement, the Recipient agrees that neither it nor any of its Affiliates will, either directly or indirectly, solicit for employment, employ or otherwise contract for the services of (or cause or seek to cause to leave the employ of the Debtor) any person who is now employed or engaged (either as an employee or consultant) or becomes employed or engaged during the term of this agreement by the Debtor in its operations, other than persons whose employment or engagement shall have been terminated at least six months prior to the date of such solicitation, employment or other contractual arrangements. The prohibition contained in this Section 7 does not extend to general solicitations of employment by the Recipient not specifically directed towards employees or consultants of the Debtor.
8. The Recipient will promptly advise the Receiver in writing of any misappropriation or misuse by any Person of the Confidential Information, and immediately upon becoming aware that any Confidential Information has been disclosed in a manner that may constitute a breach of this Confidentiality Agreement.
9. In the event that the Recipient obtains or is provided with access to any Personal Information as part of the Confidential Information, the Recipient shall comply with all applicable laws in respect of such Personal Information including, without limitation, the *Personal Information Protection and Electronic Documents Act (Canada)* and the *Personal Information Protection Act (Alberta)*. The obligations imposed on the Recipient pursuant to this Section 9 are in addition to, and not in modification of, any additional obligations the Recipient has or may have with respect to such Personal Information pursuant to this Confidentiality Agreement.
10. If the Recipient or any of the Representatives is requested pursuant to, or required by, applicable law or legal process to disclose the Confidential Information or any portion thereof, the Recipient shall to the extent permitted under applicable law forthwith provide the Receiver with prompt notice of such request or requirement, in order to enable the Receiver to seek an appropriate protective order, injunction or other remedy or to waive compliance with the terms of this Confidentiality Agreement. The Recipient will not oppose any action by the Receiver to seek such a protective order, injunctions or other remedy. If, failing the obtaining of a protective order or other remedy by the Receiver, such disclosure is required, the Recipient or the Representatives will furnish only that portion of the Confidential Information which it is advised by counsel is legally required and the Recipient or the Representatives, as the case may be, will use reasonable efforts to ensure that the disclosure will be afforded confidential treatment.
11. The Confidential Information will not be copied, reproduced in any form or stored in a retrieval system or data base by the Recipient without the prior written consent of the Receiver.
12. The Confidential Information is and at all time shall remain the property of the Debtor. The Recipient agrees that this Confidentiality Agreement is not intended to and does not grant, expressly or by implication, any right or license in respect of any Confidential Information, including any intellectual property right or similar proprietary right.
13. This Confidentiality Agreement does not constitute any representation, warranty or guarantee with respect to the accuracy or completeness of the Confidential Information or any portion thereof and the Recipient will not be entitled to rely on the accuracy or

completeness of the Confidential Information or any portion thereof. Neither the Receiver nor any of its directors, officers, employees, agents or professional advisors (including, without limitation, financial advisors, legal advisors and accountants) will be held liable for any errors or omissions in the Confidential Information or the use, or the results of the use, of the Confidential Information. Only such representations or warranties that are contained in a definitive agreement with respect to a possible Transaction, when, as and if executed and subject to such conditions or limitations or restrictions as may be specified therein, shall have any legal effect.

14. the Receiver may refuse to make all or any portion of the Confidential Information available to the Recipient or otherwise terminate the Recipient's access to the Confidential Information at any time as determined by the Receiver at its sole and unfettered discretion. The Recipient will promptly destroy, return or cause the return to the Receiver of all of the Confidential Information, and all copies thereof, upon the Receiver requesting the Recipient destroy, return or cause the return of the Confidential Information (provided that electronic information may be retained in back up servers if not intentionally made available to any person, and is deleted in accordance with the Recipient's normal policies with respect to the retention of electronic records). Upon request, the Recipient shall provide the Receiver with a certificate from an officer of the Recipient certifying that such destruction or return has occurred in accordance with the terms of this Confidentiality Agreement. Notwithstanding the return or destruction of the Confidential Information, the Recipient shall continue to be bound by the confidentiality and other obligations hereunder.
15. Unless and until a binding agreement is entered into between the Recipient and the Receiver with respect to the Property, neither the Recipient nor the Receiver will be under any legal or equitable obligation of any kind whatsoever with respect to or involving the Property and/or the Debtor.
16. Without limitation and in addition to any other rights of the Receiver against the Recipient and any of its Representatives arising by reason of any breach hereof, the Recipient shall: (a) be liable to the Receiver for all losses, costs, damages and expenses whatsoever, including legal (to be determined on a full indemnity, solicitor and his own client basis), accounting, and other professional costs, expenses, fees and disbursements, which the Receiver may suffer, sustain, pay or incur; and (b) indemnify and hold the Receiver harmless against all actions, proceedings, claims, demands, losses, costs, damages and expenses whatsoever, which may be brought against or suffered by the Receiver or which it may sustain, pay or incur, which are judicially established to result or arise, directly or indirectly, from disclosure of all or any part of the Confidential Information contrary to the provisions hereof or any other breach of this Agreement by the Recipient or any of its Representatives.
17. If any provision of this Confidentiality Agreement is held to be invalid or unenforceable in whole in part, such invalidity or unenforceability will attach only to such provision or part thereof and the remaining part of such provision and all other provisions hereof will continue in full force and effect.
18. This Confidentiality Agreement constitutes the entire agreement between the Parties with respect to the subject matter and cancels and supersedes any prior understandings and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, express, implied or

statutory, between the Parties other than as expressly set forth in this Confidentiality Agreement. This Confidentiality Agreement may only be amended in writing by the mutual agreement of the Receiver and the Recipient.

19. No failure or delay by either Party in exercising any right, power or privilege under this Confidentiality Agreement will operate as a waiver thereof, nor will any single or partial exercise preclude any other or further exercise of any right, power or privilege under this Confidentiality Agreement.
20. This Confidentiality Agreement will enure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided that this Confidentiality Agreement may not be assigned by the Recipient without the prior written consent of the Receiver.
21. No amendment, supplement, modification or waiver or termination of this Confidentiality Agreement and, unless otherwise specified, no consent or approval by either Party, shall be binding unless executed in writing by the Party to be bound thereby.
22. This Confidentiality Agreement will expire on the earlier of (i) the date of completion of a Transaction involving the Recipient; and (ii) two (1) years after the date hereof. Notwithstanding the foregoing, the Recipient acknowledges that the confidentiality and non-use obligations in this Confidentiality Agreement pertaining to Personal Information shall survive any termination or expiration of this Confidentiality Agreement.
23. The Recipient acknowledges that disclosure of the Confidential Information or other breach of this Confidentiality Agreement would cause serious and irreparable damage and harm to the Receiver and/or Debtor and agrees that monetary damages would not alone be sufficient to remedy any breach by the Recipient or the Representatives of any term or provision of this Confidentiality Agreement and further agrees that the Receiver shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach hereof and in addition to any other remedy available pursuant to this Confidentiality Agreement or at law or in equity.
24. In the event that any notice is to be given pursuant to this Confidentiality Agreement, it shall be given by email, facsimile, courier, registered mail, regular mail or personal delivery:

(a) if being given to the Recipient, to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Email: \_\_\_\_\_

Fax: \_\_\_\_\_

(b) if being given to the Receiver, to:

FTI Consulting Canada Inc.  
1610, 520-5th Avenue SW  
Calgary, Alberta T2P 3R7

Attention: Rob Kleebaum  
Email: robert.kleebaum@fticonsulting.com  
Fax: 403-699-8062

(c) notices given pursuant to this Confidentiality Agreement by email or by facsimile shall be deemed to be received when sent. In all other instances, notices given pursuant to this Confidentiality Agreement shall be deemed to be received when delivered to the relevant address, as identified above; and

(d) the Parties may change the individual, email address, facsimile number or postal address designated to receive notices by giving written notice of the new person, email address, facsimile number or postal address, as the case may be, to the other Party.

25. This Confidentiality Agreement is governed by and will be construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein.

26. For the purpose of all legal proceedings this Confidentiality Agreement will be deemed to have been performed in the Province of Alberta and the courts of the Province of Alberta will have exclusive jurisdiction to entertain any action arising under this Confidentiality Agreement. The Recipient hereby attorns to the jurisdiction of the courts of the Province of Alberta.

27. This Confidentiality Agreement may be executed in any number of counterparts, each of which when executed shall be deemed to be an original and all of the counterparts together shall constitute one and the same instrument.

**IN WITNESS WHEREOF** the Parties have entered into this Confidentiality Agreement effective as of the date written above.

**FTI CONSULTING CANADA INC.**, in its capacity as Court appointed receiver and manager of Rig Raptor Ltd. and not in its personal or corporate capacity

Per:

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

Per

:

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