



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

CAUSE NO: FSD 47 OF 2023 (DDJ)

IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF TELFORD OFFSHORE HOLDINGS LIMITED

WINDING UP PETITION

To the Grand Court

The humble petition of GLAS Trust Corporation Limited, a private limited company incorporated in England and Wales with registered number 07927175 and having its registered office at 55 Ludgate Hill, Level 1, West, London, England EC4M 7JW (the **Petitioner**) shows that:

Preamble

1. The Petitioner presents this petition for the winding up of Telford Offshore Holdings Limited (the **Company** or **TOHL**) and the appointment of Alexander William Lawson and Christopher Barnett Kennedy both of Alvarez & Marsal Cayman Islands Limited, Flagship Building, 2nd Floor, 142 Seafarers Way, George Town, PO Box 2507, Grand Cayman, KY1-1104, Cayman Islands, [as joint official liquidators to the Company.
2. The Company is an exempted company incorporated in the Cayman Islands on 31 July 2017 under the Companies Act (the **Companies Act**) with registration number 325586. The registered office of the Company is at Walkers Corporate Limited, 190 Elgin Avenue, George Town, Grand Cayman KY1-9008, Cayman Islands.

3. The Petitioner is a contingent creditor of the Company and seeks the winding up of the Company pursuant to Section 92(d) of the Companies Act on the basis that the Company is unable to pay its debts.
4. Terms used in this Petition shall have the meaning given to them in the Bond Agreement (as defined below), unless otherwise defined in this Petition.

The Company

5. Prior to the enforcement action described at paragraph 7 below, the Company was the holding company of a group of companies (the **Group**) incorporated in, amongst others, the Cayman Islands, the British Virgin Islands, the United Arab Emirates and the Netherlands.
6. The Group was headquartered in Dubai and owned a fleet of five DP3 vessels that provide offshore installation, accommodation and support services to the oil & gas industry.
7. Through the enforcement of a share charge over the shares in Telford Offshore International Ltd (**TOIL**), which was an indirect wholly-owned subsidiary of the Company prior to the share charge enforcement, the primary business operations of the Group have been sold and transferred to MAM Telford Holdings, Ltd. (**MAM Telford**) through a competitive sales process (further details on the competitive sales process are provided below at paragraphs 25-32).
8. As a consequence, the Group currently comprises of the Company and its direct wholly-owned subsidiary, Telford Offshore Limited (**TOL**). The Company has no business operations of its own and it is the Petitioner's understanding that the Company previously primarily relied on TOIL and its subsidiaries, which were sold through the enforcement process, to service its debt obligations. TOL has no other assets than the ownership of shares in Telford Energy Nigeria Limited, which the Petitioner understands have negligible value. It is also the Petitioner's understanding, that similar to the Company, TOL relied on distributions from TOIL and its subsidiaries to service its debt obligations.

The Petitioner

9. The Petitioner is the current Security Agent under an Intercreditor Agreement dated 17 April 2020 (as amended and restated from time to time) (the **ICA**) entered into between, amongst others, TOL, the Company, Coöperatieve Rabobank U.A. (**Rabobank**), the Bond Trustee (as defined below) and Nordic Trustee AS, as Security Agent on behalf of the Secured Parties (as defined in the ICA). The Petitioner replaced Nordic Trustee AS as Security Agent by Security Agent Substitution Deed dated 30 December 2022.
10. The Petitioner brings this action as Security Agent on behalf of Merced (as defined below), the sole creditor under the Bond Agreement. The Security Agent is a creditor of the Company for the debt owed under the Bond Agreement and the Guarantee and Indemnity (as defined below)

pursuant to a Security Trust Deed dated 30 December 2019 (as amended) (the **Security Trust Deed**).

The Bond Agreement

11. Pursuant to a bond agreement originally dated 24 December 2019 (as amended and restated from time to time, most recently by the amended and restated bond agreement dated 30 July 2021) (the **Bond Agreement**) TOL issued senior secured bonds in the principal amount of USD88,000,000 with an interest rate of 15% p.a. and a maturity date of 31 December 2022 (the **Bonds**).
12. Nordic Trust AS is the registered trustee for the registered and nominee holders of the Bonds (the **Bondholders**) under the Bond Agreement (the **Bond Trustee**).
13. Merced Partners Limited Partnership, Merced Partners V, L.P. and Capital Corp. LLC (together, **Merced**) is the registered holder of 100% of the Bonds. Merced acceded to the ICA as Super Senior Creditor (as defined in the ICA) following its cash collateralisation of liabilities owed to Rabobank.
14. Clause 4.9.1 of the Bond Agreement provides, as far as relevant:

Covenant to pay

(a) The Issuer shall pay interest on the par value of the Outstanding Bonds from, and including, the Issue Date at the Interest Rate. Interest shall be paid in arrears on each applicable Interest Payment Date.

(b) The first Interest Payment Date shall be 30 June 2021.

(c) If a Payment falls on a day which is not a Business Day, the payment shall be made on the first following Business Day.

(d) The Issuer undertakes to pay to the Bond Trustee any other amount payable pursuant to the Finance Documents at its due date.

(...)
15. Interest is payable on the Bonds on 30 June and 31 December of each year.
16. The Bond Agreement further provides in clause 5.1 (*Events of Defaults*):

Each of the events or circumstances set out in this Clause 5.1 (Events of Default) shall constitute an Event of Default:

5.1.1. Non-payment: The Issuer fails to fulfil any payment obligation due under this Bond Agreement or any other Finance Document when due, unless, in the opinion of the Bond Trustee, it is likely that such payment will be made in full within five (5) Business Days following the original due date.

17. By letter dated 27 June 2022 from the Bondholders to the Bond Trustee and TOL, the Bondholders granted TOL a deferral of its obligation to pay interest due on the Bonds on 30 June 2022, until 30 September 2022 against a fee which would also fall due on 30 September 2022.
18. Merced and TOL engaged in discussions with the aim to agree the terms of a restructuring of the debt of the Group, including the debt under the Bonds. As part of these discussions, Merced agreed to provide a number of waivers and proceeded to instruct the Bond Trustee to enter into a further deferral letter to defer certain payment obligations.
19. In December 2022, Merced proceeded to instruct the Bond Trustee to enter into a further deferral letter to defer certain payment obligations.

The Bond Agreement – Events of Default and Notice of Acceleration

20. Discussions that had been ongoing between TOL and Merced aimed at agreeing the terms of a restructuring ended at the end of December 2022.
21. On 9 January 2023 Merced instructed the Bond Trustee to withdraw the deferral letters. By letter dated 10 January 2023 from the Bond Trustee to TOL and the Company, the Bond Trustee withdrew the deferral letters. As a result, the payments that had been waived or deferred under the Bond Agreement by the deferral letters became due and payable.
22. The Bond Agreement provides in clause 5.3.1 (*Acceleration Instructions*):

(...), the Bond Trustee shall declare the Outstanding Bonds including all accrued interest on the Outstanding Bonds, costs and expenses and all other amounts outstanding under the Finance Documents, to be in default and due for immediate payment if:

- (i) *The Bond Trustee receives a demand in writing that a default shall be declared from Bondholders representing at least 1/5 of the Voting Bonds, and a Bondholders' Meeting of the Voting Bonds has not made a resolution to the contrary; or*

(ii) *A Bondholders' Meeting of the Bonds has so decided, provided that at least a simple majority of the represented Voting Bonds voted in favour of the foregoing,*

(each of (i) and (ii) above will constitute a "Bondholder Acceleration Instruction").

23. By letter dated 19 January 2023, Merced instructed the Bond Trustee to issue a letter declaring all amounts outstanding under the Bonds to be in default and due for immediate payment. On 19 January 2023 the Bond Trustee issued the requested acceleration notice to the Security Agent, with TOL in copy.
24. By letter dated 20 January 2023 the Security Agent notified, amongst others, the Company that an acceleration notice had been issued and that an Acceleration Event had occurred.

Security – Enforcement of TOIL Share Charge

25. Per clause 3.3 (*Security*) of the Bond Agreement, all monies, obligations and liabilities owed under the Bond Agreement are secured by, amongst others, Cayman law governed share charges over the shares in TOL, TOIL and certain of TOIL's subsidiaries.

26. Clause 5.3.2 (*Enforcement Instructions*) of the Bond Agreement provides:

The Bond Trustee shall take, or instruct the Security Agent to take, any Enforcement Action if:

(i) *The Bond Trustee receives a demand in writing from Bondholders representing a simple majority of the Voting Bonds to take Enforcement Action, and a Bondholders' Meeting of the Voting Bonds has not made a resolution to the contrary; or*

(ii) *A Bondholders' Meeting of the Bonds has so decided, provided that at least a simple majority of the representing Voting Bonds voted in favour of the foregoing,*

(each of (i) and (ii) above will constitute a "Bondholders Enforcement Instruction"). (...).

27. By letter dated 20 January 2023, Merced instructed the Bond Trustee to issue instructions to the Security Agent to enforce the share charge over the shares in TOIL and take the actions required under the ICA for the purpose of enforcing the share charge by running a Competitive Sales Process (as defined in the ICA). By letter dated 20 January 2023 the Bond Trustee issued these enforcement instructions to the Security Agent.
28. Following the instructions received from the Bond Trustee, the Security Agent proceeded to notify, amongst others, TOL and the Company of the enforcement instruction and to set up and run a Competitive Sales Process (as defined in the ICA) in relation to the shares in TOIL.

29. The sales process was completed on 9 February 2023. The shares in TOIL have been sold and transferred to MAM Telford as the highest bidder. MAM Telford is indirectly owned and controlled by Merced.
30. The TOIL shares were sold for a total consideration of USD85,009,400, comprising a write down of USD83,000,000 of new debt instruments in the form of a reinstated debt facility, as a credit bid of the debt due to Merced under the Bond Agreement and the Finance Documents (as defined in the Bond Agreement); and assumption of super senior liabilities in the amount of GBP2,009,400. In addition, the Security Agent received further Recoveries (as defined in the Share Purchase Agreement) in cash in the sum of GBP 785,520.86 and USD 1,147,407.12 and further Transaction Costs (as defined in the Share Purchase Agreement) in the sum of EUR 28,000, GBP37,650 and USD7,179,105.78.
31. Upon transfer of the TOIL shares to MAM Telford all security that had been provided by TOIL and its subsidiaries to secure the payment obligations under the Bond Agreement and the Finance Documents, was released.
32. The remaining security in relation to the Bond Agreement comprises a share charge over the shares in TOL and security over a retention account held with Rabobank. The TOL shares have insignificant value as TOL was an intermediary holding company and the Group's primary business operations are not owned by TOL following the sale and transfer of the TOIL shares. To the Petitioner's knowledge, the said retention account has a balance of US\$1,043,744.61.

The Guarantee

33. The obligations under the Bond Agreement are guaranteed by the Company pursuant to a Guarantee and Indemnity entered into on 30 December 2019 (the **Guarantee and Indemnity**) between, amongst others, the Company, various other Group companies and the Security Agent. Following the enforcement and sale of the shares in TOIL and its subsidiaries, all guarantors have been released from their obligations under the Guarantee, with the exception of the Company.
34. Clause 3.1 of the Guarantee and Indemnity provides:

Each Guarantor hereby irrevocably and unconditionally, jointly and severally and notwithstanding the release of any other guarantor or any other person under the terms of any composition or arrangement with any creditors of the Issuer:

(a) guarantees to the Security Agent (for itself and for and on behalf of the Secured Parties) the due and punctual payment of each and every part of the Indebtedness in accordance with the

terms of the Finance Documents and the due performance and observance by the Issuer or each of its obligations under the Finance Documents to which the Issuer is party;

(b) undertakes with the Security Agent (for itself and for and on behalf of the Secured Parties) that, if any of the Indebtedness is not paid when it is due and payable, whether on maturity or otherwise, the Guarantors will within 14 Business Days of any demand, make such payment to the Security Agent in the manner specified by the Security Agent (together with interest on the amount demanded at the rate accruing on the same under the Bond Agreement or other relevant Finance Documents from the date of demand until the date of payment), both before and after judgment, as if it was the principal obligor; and

(c) agrees with the Security Agent (for itself and for and on behalf of the Secured Parties), as a separate and independent obligation, that, if any of the Indebtedness is not recoverable from the Guarantors under Clause 3.1(b) for any reason, it will, be liable as a principal debtor (and not merely as a surety) by way of indemnity for the same amount as that for which that Guarantor would have been liable had that Indebtedness been recoverable, and agrees to discharge its liability under this Clause 3.1(c) by making payment to the Security Agent immediately on demand (together with interest on the amount demanded at the rate accruing on the same under the Bond Agreement or other relevant Finance Document from the date of demand until the date of payment), both before and after judgment.

35. The Guarantee and Indemnity further provides in clause 6.1:

The Guarantors shall pay to the Security Agent within 14 Business Days of any demand on a full indemnity basis, all costs and expenses incurred by any Finance Party in or about or incidental to the exercise by it of its rights under this Guarantee and Indemnity, together with interest at the applicable Default Rate on the amount demanded from the date of demand until the date of payment, both before and after judgment, which interest shall be compounded with the amount demanded at the end of such periods as the Security Agent may reasonably select.

36. By letter dated 20 January 2023 from the Security Agent to, amongst others, the Company, a payment demand was already served on the Company in compliance with clause 3.1(b) of the Guarantee and Indemnity (see above at paragraph 24). Nevertheless, the Security Agent has been instructed to issue a further payment demand to the Company under clause 3.1 of the Guarantee and Indemnity (see instruction letter referenced below at paragraph 41). The Security Agent intends to issue this further payment demand to the Company forthwith upon the filing of the Petition demanding immediate payment of USD17,886,198.59, the amount that remains outstanding under the Bond Agreement and the Finance Documents (excluding costs and expenses that are owed).

The Debt

37. Prior to the enforcement of the share charge over the TOIL shares, the debt under the Finance Documents amounted to USD100,621,792.50 (in principal and default interest as at 9 February 2023) under the Bond Agreement but excluding costs and expenses which are also owed under the Finance Documents.
38. As a result of the sale and credit bid as described above at paragraph 29 **Error! Reference source not found.**, the debt owed under the Finance Documents has been reduced by USD83,000,000 and the amount that remains outstanding and is owed to the Petitioner under the Guarantee and Indemnity, with accrued interests as of 24 February 2023 is in the sum of \$17,896,080.47 (the **Debt**). The Petitioner has sought payment from the Company pursuant to the Guarantee. The Debt remains due and owing by the Company as of the date of presentation of this Petition.

Insolvency of the Company

39. The Company functioned solely as the holding company of the Group and has no stand-alone business operations from which it would be able to generate income. Following the sale of the TOIL shares and the transfer of the business operations of the Group, the Petitioner believes that the Company has no source of income and insufficient liquid assets that would allow it to continue servicing its debt obligations, including paying the Debt. The Company is unable to pay its debts and in the circumstances the Company should be wound up.

Nomination of Liquidators

40. Alexander William Lawson and Christopher Barnett Kennedy both of Alvarez & Marsal Cayman Islands Limited, Flagship Building, 2nd Floor, 142 Seafarers Way, George Town, PO Box 2507, Grand Cayman, KY1-1104, Cayman Islands, have undertaken due conflicts checks and diligence in relation to the Company and meet the residency, eligibility and insurance requirements of the Insolvency Practitioners Regulations. Alexander William Lawson and Christopher Barnett Kennedy also consent to their appointment as joint official liquidators.

Instructions to present the Petition

41. By letter dated 24 February 2023 and pursuant to clause 5.3.2 (Enforcement Instructions) of the Bond Agreement, Merced directed and authorised the Bond Trustee to instruct the Security Agent to issue a further demand letter under the Guarantee and Indemnity and to file a winding up petition against the Company. By letter dated 24 February 2023 the Bond Trustee issued these enforcement instructions to the Security Agent.
42. The Petitioner is therefore authorised to present the Petition.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:

- (1) The Company be wound up in accordance with section 92(d) the Companies Act.
- (2) Alexander William Lawson and Christopher Barnett Kennedy both of Alvarez & Marsal Cayman Islands Limited, Flagship Building, 2nd Floor, 142 Seafarers Way, George Town, PO Box 2507, Grand Cayman, KY1-1104, Cayman Islands be appointed as joint official liquidators of the Company (the **JOLs**).
- (3) The JOLs shall not be required to give security for their appointment.
- (4) The JOLs shall have the power to act jointly and severally in their capacity as liquidators of the Company.
- (5) The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
- (6) The JOLs be authorised to exercise any of the powers listed in Parts I and II of Schedule 3 to the Companies Act and section 110(2) thereof, without the need for further sanction or intervention of this Honourable Court.
- (7) The JOLs shall be authorised to do any act or thing considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs in the Cayman Islands and/or elsewhere.
- (8) Without prejudice to the generality of the foregoing, the JOLs be authorised and be granted leave to take all such actions as may be necessary to:
 - a) bring or defend any action or other legal proceedings in the name and on behalf of the Company and to engage attorneys for such purposes in order to secure the assets of the Company;
 - b) take all action required consistent with applicable law to carry on the business of the Company so far as may be necessary for its beneficial winding up;
 - c) take all action on behalf of the Company in the name of and to the exclusion of the directors of the Company which shall forthwith have no authority or power to act in relation to the Company other than at the direction and with the consent of the JOLs;
 - d) investigate the affairs of the Company and its subsidiary;

- e) to take all necessary steps to take control of the Company's subsidiary, including by exercising the voting or other rights attached to the shares in the Company's subsidiary and/or causing themselves to be registered as holder of the Company's shares in their subsidiary in place of the Company;
 - f) take steps to locate, demand and secure cash held by the Company and its subsidiary in bank accounts in the Cayman Islands, Hong Kong or elsewhere;
 - g) pass resolutions appointing themselves or their nominees as directors and/or liquidators of its subsidiary in accordance with the terms of their constitutional documents and the laws of the place of incorporation;
 - h) take steps to replace the directors, legal representatives, and any other officers of the Company;
 - i) negotiate with key creditors; and
 - j) make applications to, and seek the assistance and recognition from, the courts of any foreign jurisdictions as may be necessary in the course of their conduct as JOLs of the Company or for the purposes of carrying out any of the functions provided for herein.
- (9) The JOLs be at liberty to appoint such counsel, attorneys, professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with CWR Order 25.
- (10) No disposition of the Company's property by or with the authority of the JOLs in carrying out their duties and functions and exercise of their powers under this Order shall be voided by virtue of section 99 of the Companies Act.
- (11) No suit, action or other proceedings be proceeded with or commenced against the Company except with leave of the Court and subject to such terms as the Court may impose.
- (12) Subject to section 109 of the Companies Act and the Insolvency Practitioner's Regulations, the JOLs be authorised to render and pay invoices out of the assets of the Company for their own remuneration.
- (13) The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation.
- (14) The Petitioner's costs of and incidental to this Petition shall be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the JOLs.

(15) The JOLs are at liberty to apply generally.

(16) Such further or other relief be granted as the Court deems appropriate.

Dated this 24th day of February 2023

Filed this 24th day of February, 2023



Appleby (Cayman) Ltd.
Attorneys for the Petitioner

TIME ESTIMATE: The estimated length of the hearing of this Petition is a half day.

NOTE: This petition is intended to be served on the Company at its registered office.

This Petition is presented by Appleby (Cayman) Ltd, Attorneys-at-Law for the Petitioner, whose address for service is 71 Fort Street, PO Box 190 GT, Grand Cayman, KY1-1104, Cayman Islands (Ref: 455816.0001 DB/AJ)

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman on 20 April 2023 at 10 am.

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone no. 349 949 4296.