THOMMESSEN

**SIMPLIFIED NOTIFICATION OF A CONCENTRATION**

CONCERNING THE ESTABLISHMENT OF A FULL-FUNCTION JOINT VENTURE BETWEEN

**DEEPOCEAN AS**

AND

**JOHANNES ØSTENSJØ DY AS**

AND

**SOLSTAD OPERATIONS HOLDING AS**

**11 August 2022**

*Contains business secrets*


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# 1 CONTACT INFORMATION

## 1.1 Notifying Party I

| | |
|---|---|
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## 1.2 Notifying Parties II and III

### *1.2.1 Notifying party II*

| | |
|---|---|
| Name: | Johannes Østensjø DY AS, |
| Company reg no.: | 959 518 319 |
| Address: | Smedasundet 97<br>5525 Haugesund<br>Norway |

### *1.2.2 Notifying party III*

| | |
|---|---|
| Name: | Solstad Operations Holding AS, |
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## 2 DESCRIPTION OF THE CONCENTRATION

Pursuant to the Investment Agreement (the "**Agreement**") between DeepOcean AS ("**DeepOcean**"), Johannes Østensjø DY AS ("**Østensjø**") and Solstad Operations Holding AS ("**Solstad**") (together, the "**Parties**") dated 17 June 2022, the Parties will establish a jointly owned Norwegian limited liability company (the "**Proposed Transaction**") with the purpose of constructing, owning and operating autonomous unmanned surface vehicles ("**USV**") and providing remote operations to relevant industries through a remote operation centre ("**ROC**").

The name of the joint venture will be Remota Holding AS ("**Remota Holding**" or the **"JV**"). DeepOcean InvestCo 3 AS (to be renamed Remota Holding AS), a Norwegian private limited liability company with organisation number 927 084 007, will be the holding company for the JV. Remota Holding will have two subsidiaries, DeepOcean InvestCo 2 (to be renamed Remota AS) (company registration number 926 829 459), and DeepOcean InvestCo 4 (to be renamed USV AS) (company registration number 927 083 957) (together, the "**Subsidiaries**"), which will contain the operative business of the JV.

The Parties have complementary competencies and experience in the ocean space, and have identified a market opportunity in constructing, owning and operating USVs and providing remote control operation services through a ROC, which in sum entails the offering of services which will contribute to driving down operating costs and emissions for the marine and offshore industries. To the best of the Parties' knowledge, no market actor offer such services to third parties in any market.

The Proposed Transaction is subject to a merger notification in Norway pursuant to Section 18, cf. Section 17 of the Norwegian Competition Act as each of the undertakings concerned have achieved turnover exceeding NOK 100 million and their combined turnover exceeds NOK 1 billion in Norway in the last completed financial year.

The Proposed Transaction is also notified to the competition authorities in Denmark, Portugal and Cyprus.

## 3 THE JV WILL CONSTITUTE A FULL-FUNCTION JOINT VENTURE

The Parties submit that the JV will constitute a full-function joint venture preforming on a lasting basis all the functions of an autonomous economic entity, which will, following the successful development of its products and services, offer products and services independently on the relevant market(s).

Firstly, pursuant to the Investment Agreement, [redacted]

[redacted]

[redacted]

On that basis, the Parties submit that the JV will have sufficient management, staff, finances and assets to operate independently on the market(s) for the JV's services in the long term. Hence, the Parties consider that the criteria for full-functionality are met.

Furthermore, the Parties will own 1/3 of the shares in the JV each. [redacted] Pursuant to the Reserved Matters included in the Investment Agreement, the Parties submit that the JV will be jointly controlled by the three parents. In particular, the Parties submit that Reserved Matters [redacted] read as a whole confer joint control.

## 4 THE CONDITIONS FOR SUBMITTING SIMPLIFIED NOTIFICATION ARE SATISFIED

As described in Section 2 above, the JV will be established with the purpose of constructing, owning and operating USVs and providing ROC services. Subsequent to the Proposed Transaction, none of the Parties will be active in the same product market as the contemplated JV, regardless of the market definition. In relation to the USV, the JV will be a greenfield establishment that will develop and commercialise its own technology and services.

As the purpose of the JV is to construct, own and operate USVs and provide ROC services to the Parties as well as third parties, there is thus a vertical overlap between the JV and the parent companies. However, as the JV is a greenfield establishment and the Parties have a market share well below 30% in the respective markets, the simplified procedure is applicable. This is further explained in Section 7 below.

Hence, based on the above, the Parties submit that the Proposed Transaction qualifies for a simplified notification in accordance with the Regulation on the Notification of Concentrations Section 3 first paragraph, item 3, litra a and c.

# 5 THE STRUCTURE AND BUSINESS AREAS OF THE UNDERTAKINGS

## 5.1 DeepOcean AS

### *5.1.1 Legal and organizational structure*

**DeepOcean** is a Norwegian private limited company, established in 1999 with headquarters in Haugesund, Norway. DeepOcean's operational centres are in Norway, the UK, France, the US and Mexico. DeepOcean has clients worldwide.

More information on DeepOcean is available at http://www.deepoceangroup.com.

Appendix 1: DeepOcean structure chart

**Triton** is an international investment firm. Since 2016, Triton has been the largest shareholder in DeepOcean. Triton has offices in Germany, Finland, Sweden, Denmark, Norway, United Kingdom, Jersey, Italy, Luxembourg, the Netherlands, New York and China.

More information about Triton can be found on their website: https://www.triton-partners.com/.

### *5.1.2 Areas of business*

**DeepOcean** is a services provider in the ocean space and offers services to companies within oil and gas, offshore renewables, deep sea minerals, as well as other non-energy niches. The services are differentiated, and include surveying, engineering, project management and installation, in addition to maintenance and recycling. DeepOcean currently operates a fleet of vessels and more than 50 remotely operated vehicles (ROVs). It also carries out in-house tool manufacturing and possesses extensive supply of tools.

**Triton** is currently invested in 47 companies, with combined sales of approx. EUR 18.1 billion per annum and 105 000 employees. The group consists of various funds, dedicated to investing in businesses, primarily in German-speaking countries, the Nordic countries, the Benelux region, France, Italy, Spain and the UK. Triton primarily focuses on four business sectors: i) Business Services, ii) Industrials, iii) Consumer, and iv) Health.

An overview of Triton's portfolio companies, including a description of their business activities, is enclosed as confidential Appendix 2.

Appendix 2: Overview of Triton's portfolio companies

In Norway, Triton is active via the following portfolio companies: Ambea (25%), Assemblin, Aleris, Fertiberia, Norres Group, Unident, Norstat, Ewellix, ACRE, Renk, HiQ, SCHOCK, Bergman Clinics, LeDap. All4labels, IFCO, Pharmanovia, Royal Reesink, AVS, Ramudden, Bormioli, Glamox, Werner Co,

DeepOcean, FLOKK, Kelvion, Arvos, Fläktgroup, Cubility, Talis, Kährs Group, DYWIDAG, Seves, Gaia Food and FairWind.

As far as the Parties are concerned, none of the portfolio companies will operate in the same market as the JV following the Proposed Transaction.

### 5.2 Johannes Østensjø DY AS

#### *5.2.1 Legal and organizational structure*

**Østensjø** is a Norwegian private limited company, ultimately controlled by Verteks AS. Business in the Østensjø Group was started in 1973, while Østensjø was established in 1990 by owner Johannes Østensjø. The Østensjø Group has approx. 800 employees. It is headquartered in Haugesund, Norway, and has regional offices in the UK, Poland, and Malta.

Appendix 3: Østensjø structure chart

#### *5.2.2 Areas of business*

The company is a provider of offshore- and towage services worldwide. It operates a fleet of modern vessels, including tugs/mooring vessels, offshore service vessels, service operation vessels (SOVs) operating in the renewable market, and an accommodation vessel. The Østensjø Group also delivers crew services to the shipping industry.

More information about Østensjø can be found on their website: https://ostensjo.no/

### *5.3* Solstad Operations Holding AS

#### *5.3.1 Legal and organizational structure*

**Solstad** is a Norwegian private limited company, ultimately controlled by Solstad Offshore ASA.

The company is headquartered in Skudeneshavn, Norway, and has regional offices in Fosnavåg (Norway), Aberdeen, Singapore, Perth, Rio de Janeiro and Manila. Solstad owns 89 vessels and has 3612 employees of which 3286 are dedicated offshore employees.

Appendix 4: Solstad structure chart

#### *5.3.2 Areas of business*

Solstad provides specialized offshore tonnage to the offshore energy industry worldwide. The company's ships offer a range of services within petroleum-related activities, including installation, inspection and maintenance of subsea installations, as well as traditional supply and anchor handling services.

### *5.4* Remota Holding AS

*5.4.1 Legal and organizational structure*

Remota Holding AS will have two subsidiaries, Remota AS (100%) and USV AS (100%).

*5.4.2 Areas of business*

The purpose of the JV will be to construct, own and operate USVs and provide remote operations to relevant industries through a ROC.

**USV AS** will develop technology and subsequently build, own and operate USVs for sale of USV services. It is estimated that the USV solution can reduce $CO_2$-emissions by more than 90% compared to a conventional offshore vessel when conducting subsea operations.

**Remota AS** will own and operate a remote operational centres, the first of which was launched in Haugesund in 2019, from where it currently manages DeepOcean's ROVs in European waters.

Remota AS will operate independently of its three owners and, in time, offer its services to operators, vessel owners and service companies operating in the Norwegian and UK continental shelf, and later, if proven successful, worldwide. While it will initially offer ROC services to offshore shipping companies and ROV-operators, the aim is to expand sales of ROC service to other industries as well.

None of the Parties will operate in the same market(s) as the JV following the Proposed Transaction.

## 6 TURNOVER IN NORWAY FOR THE LAST FISCAL YEAR (2021)

| | **Turnover** (thousand NOK) |
|---|---|
| Triton | [redacted] |
| Solstad | |
| Verteks | |

## 7 NO MARKETS ARE AFFECTED BY THE TRANSACTION

### 7.1 Introduction

As mentioned above, the purpose of the JV is to (i) construct, own and operate USVs for the Parties and third-party customers and (ii) provide remote operation services to all relevant industries through a ROC. USV and ROC services are further explained below.

[redacted]

**A USV** is a vessel that operates on the surface without a crew. The USV is remotely operated through a remote operation centre, and will therefore generate cost savings and a reduced carbon footprint compared to conventional subsea vessels. This entails, inter alia, savings in fuel consumption. In addition, safety is increased due to the limited need for offshore personnel.

A USV may provide a launch platform for a work class subsea remotely operated vehicle system (ROV). Subsea ROV systems are unmanned underwater robots operated from the surface and used, inter alia, in the construction, installation, observation, repair and maintenance of subsea oil and gas infrastructure and equipment. Work class subsea ROV systems are particularly useful for installation, service, repair, and recovery of objects and other interventions. Most work class subsea ROV systems have two manipulator arms attached that enable them to carry out their specific tasks.

**A ROC** enables operations to be executed from another location, so as to reduce costs and lower carbon footprint. By allowing digital monitoring and control of operations, the ROC offers the potential for significantly reduced offshore personnel.

A ROC can operate vessels, marine and mining operations, USVs, drones and other remotely operated vehicles as well as carry out marine and mining operations. The ROC is a versatile system that has potential to be scaled and utilized in various industries, e.g., within marine, petroleum, defence and aerospace sectors, depending on applicable technology

## 7.2 Market definition(s)

### *7.2.1 USV services*

#### 7.2.1.1 Product market

The Parties are not aware of any decisional practice by the Norwegian Competition Authority or the EU Commission defining the market for USV services. Indeed, to the Parties' best knowledge, no companies are offering USV services at any open market. Hence, a product market for USV services is merely hypothetical.

The Parties nevertheless consider that decisional practice from the EU Commission in another ocean space related market could potentially provide some guidance in relation to the market definition. In Case M.8132 – *FMC Technologies / Technip*, the EU Commission assessed subsea remotely operated vehicle systems (ROVs), which the USV could form a launch platform for. The transaction did not raise serious doubts even under the narrowest plausible market definition and the precise market definition was therefore left open. However, the EU Commissions market investigation illustrated that customers and competitors considered that the supply of ROV systems represented a separate product market.

While the decision of the EU Commission concerned the product ROV, as opposed to operating ROVs as a service, the Parties consider that similar considerations apply to the USV.

Pursuant to the Parties, USV services could potentially constitute a separate product market. The Parties nevertheless submit that the precise delineation of the market can be left open as no competition concerns arise under any plausible market definition.

#### 7.2.1.2 Geographical market

The parties to the transaction in Case M.8132 – *FMC Technologies / Technip* considered the relevant geographic market to be worldwide in scope, as the main providers operate globally and customers source them independently of the manufacturing location. They further argued that there are no country-specific regulatory requirements and that the transport costs represent an insignificant part of the total subsea ROV systems cost (substantially less than 5%).

While the EU Commission left the exact geographic market definition open, as the transaction would not lead to serious doubts under any plausible market definition (EEA-wide or worldwide), the vast majority of respondents to the EU Commission's market investigation considered that conditions of competition were similar at a global level and that having local or regional presence was not important to be able to compete on the market for ROV systems. While the decision of the EU Commission concerned ROVs as a product and not the operation of ROVs as a service, the Parties consider that similar considerations apply when they offer the USV as a service.

The Parties consider that the market for USV services is worldwide in scope. USV services may be offered to any client operating within the ocean space. A USV may be transported to where the customers sources it and be operated remotely from a ROC located elsewhere. This being said, the currently available communication technology makes it desirable to have the ROC reasonably close to where the USV services are performed.

The Parties nevertheless submit that the precise delineation of the market can be left open as no competition concerns arise under any plausible market definition.

#### 7.2.1.3 Market shares

The Parties find it difficult to define a total market and clarify any market shares within this market, as, to the best of the Parties' knowledge, no other companies offer such or similar services in any market. As the USV is yet to be constructed and USV services are therefore also yet to be offered, the Parties do not enjoy a market share in the hypothetical market for USV services.

The Parties are however aware that certain other market actors are currently developing corresponding technology for their own use. This includes, to the best of the Parties' knowledge, the following companies: [redacted]

### *7.2.2 ROC services*

#### 7.2.2.1 Product market

The Parties are not aware of any decisional practice by the Norwegian Competition Authority or the EU Commission defining the market for ROC services. Indeed, to the best of the Parties' knowledge, no companies are offering ROC services at an open market. Hence, a product market for ROC services is merely hypothetical.

As an initial starting point, the Parties do not consider it likely that the ROC belongs to a separate market, as it is intrinsically linked to the product it is operating, being a USV or any product that could be operated remotely. However, as services to be provided through the ROC are not exclusively linked to the remote operation of the USVs to be manufactured by the JV but could potentially have a wider application, the ROC services could therefore potentially be considered a stand-alone product and thus also as to belong to a separate product market.

The Parties nevertheless submit that the precise delineation of the market can be left open as no competition concerns arise under any plausible market definition.

#### 7.2.2.2 Geographical market

The ROC will execute operations in the ocean space from a remote location. Although current technology makes it most relevant to conduct business close to the ROC's geographical location, the ROC could potentially execute operations at a long distance. In the event that the ROC belongs to a product market separate from the product it is designed to operate, the Parties submit that the market is worldwide in scope. The Parties nevertheless submit that the precise delineation of the market can be left open as no competition concerns arise under any plausible market definition.

#### 7.2.2.3 Market shares

The Parties find it difficult to define a total market and clarify any market shares within this market, as, to the best of the Parties' knowledge, no companies offer similar services to the open market.

The existing ROC, which will be transferred to the JV as part of the proposed concentration, was initiated by DeepOcean in 2018 and was fully operational and approved by key clients in the North Sea by 2021. Although the ROC technology is developed, ROC services has not previously been offered to an open market by DeepOcean.

The Parties are however aware that certain other market actors are currently developing corresponding technology for their own use. This includes, to the best of the Parties' knowledge, the following companies: [redacted]

### 7.3 No horizontally or vertically affected markets

*7.3.1 No horizontally affected markets*

Subsequent to the Proposed Transaction, none of the Parties or no undertaking controlled by the Parties ultimate parent entity will operate in the same market as the JV. Hence, the Proposed Transaction does not give rise to any horizontal overlap.

Consequently, the Parties to the Proposed Transaction do not have any overlapping activities, and information on the Parties' most important customers, competitors and suppliers, is therefore not required, cf. Regulation section 3 (2) lit. d).

*7.3.2 No vertically affected markets*

Pursuant to Shareholder Agreement, the Parties will source services from the JV for remotely operated equipment owned or leased by them. However, subsequent to successful development and thereafter launch of USV and ROC services to the market, none of the Parties or any undertaking controlled by their ultimate parent entity will, individually or combined, enjoy a market share exceeding 30% in the global purchasing market for USV or ROC services.

In addition, the JV will not hold a market share exceeding 30% in neither of the hypothetical market(s) for USV services or ROC services. Firstly, as the JV is yet to construct, own and operate the USVs, the JV does not hold any market share in the hypothetical market for USV services. Secondly, the JV will only potentially enjoy a marginal market share in the hypothetical market for ROC services, which in any case does not exceed 30% under any plausible market definition.

As the individual or combined market shares of the Parties do not exceed 30% at any level of the production and/or distribution chain (upstream or downstream) within the geographic scope of the market as defined above, there are no vertically affected markets.

## 8 ANNUAL REPORTS AND FINANCIAL STATEMENTS

Appendix 5: DeepOcean Annual Report and Financial Statement

Appendix 6: Triton Managers IV Limited Financial Statements

Appendix 7: Solstad Annual Report and Financial Statement

Appendix 8: Østensjø Annual Report and Financial Statement

## 9 DISCLOSURE/PUBLIC ACCESS

This notification contains business secrets, cf. Section 18 b of the Competition Act. All business secrets are highlighted in yellow in Appendix 10. The notification also includes confidential appendices. Justification for business secrets is set out in a separate appendix. That explanatory document is also considered as confidential information in its entirety.

Appendix 9: Justification of business secrets

Appendix 10: Proposal for confidential version

We kindly ask to be notified should the Competition Authority receive any requests for access to this notification or other documents in the case.

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Best regards,

Advokatfirmaet Thommessen AS

Karin Johanne Nordby
Advokatfullmektig