

MR01

Particulars of a charge

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Oyez



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[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

A fee is payable with this form  
Please see 'How to pay' on the last page



**What this form is for**

You may use this form to register a charge created or evidenced by an instrument.



**What this form is NOT for**

You may not use this form to register a charge where there is no instrument. Use form MR08.

SATURDAY



A09 \*A80UK035\* #103  
09/03/2019  
COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.



You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original.**

1

**Company details**

Company number

0 5 3 3 1 0 7 8

Company name in full

RED ENSIGN LIMITED



For official use

**Filing in this form**

Please complete in typescript or in bold black capitals.

All fields are mandatory unless specified or indicated by \*

2

**Charge creation date**

Charge creation date

0 6 0 3 2 0 1 9

3

**Names of persons, security agents or trustees entitled to the charge**

Please show the names of each of the persons, security agents or trustees entitled to the charge.

Name

LLOYDS BANK PLC

Name

Name

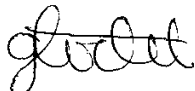
Name

If there are more than four names, please supply any four of these names then tick the statement below.

☐ I confirm that there are more than four persons, security agents or trustees entitled to the charge.

MR01

Particulars of a charge

<b>4</b>	<b>Brief description</b> Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.  Brief description THE VESSEL KNOWN AS MSV EXPLORER (OFFICIAL NUMBER 917988) AS DETAILED IN THE DEED OF COVENANTS DATED 06 MARCH 2019.	Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument".  Please limit the description to the available space.
<b>5</b>	<b>Other charge or fixed security</b> Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<b>6</b>	<b>Floating charge</b> Is the instrument expressed to contain a floating charge? Please tick the appropriate box. <input type="checkbox"/> Yes Continue <input checked="" type="checkbox"/> No Go to Section 7 Is the floating charge expressed to cover all the property and undertaking of the company? <input type="checkbox"/> Yes	
<b>7</b>	<b>Negative Pledge</b> Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>8</b>	<b>Trustee statement</b> <sup>1</sup> You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge. <input type="checkbox"/>	<sup>1</sup> This statement may be filed after the registration of the charge (use form MR06).
<b>9</b>	<b>Signature</b> Please sign the form here.  Signature X  X  This form must be signed by a person with an interest in the charge.	

# MR01

## Particulars of a charge

### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name  
GEMMA TODD  
Company name  
Foot Anstey LLP

Address  
4 North East Quay

Sutton Harbour

Plymouth

Post town  
Devon

County/Region

Postcode  
P L 4 O B N

Country

DX  
PLYMOUTH 2 ~ 118102

Telephone  
01752 675000

### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

### Checklist

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☒ The company name and number match the information held on the public Register.
- ☒ You have included a certified copy of the instrument with this form.
- ☒ You have entered the date on which the charge was created.
- ☒ You have shown the names of persons entitled to the charge.
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☒ You have given a description in Section 4, if appropriate.
- ☒ You have signed the form.
- ☒ You have enclosed the correct fee.
- ☒ Please do not send the original instrument; it must be a certified copy.

### Important information

**Please note that all information on this form will appear on the public record.**

### How to pay

**A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.**

Make cheques or postal orders payable to 'Companies House.'

### Where to send

**You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:**

#### **For companies registered in England and Wales:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.

#### **For companies registered in Scotland:**

The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post).

#### **For companies registered in Northern Ireland:**

The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG.  
DX 481 N.R. Belfast 1.

### Further information

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 5331078

Charge code: 0533 1078 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th March 2019 and created by RED ENSIGN LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th March 2019.

Given at Companies House, Cardiff on 14th March 2019



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

SEC-170390-MC

# Deed of Covenants (British Passenger Vessel Registered Under Part 1 of the UK Ship Register)

To be presented for registration at Companies House against any Mortgagor  
which is a company or a limited liability partnership within 21 days of dating.

		<b>FootAnstey</b>	
<p><del>I</del>we hereby certify this to be a true and accurate copy of  the original produced/<del>not produced</del> in person this <u>6</u>  day of <u>March</u> 20 <u>19</u> /and <del>is a true likeness</del>  of _____</p>			
<p>Name <u>FootAnstey</u></p>			
<p>Foot Anstey LLP</p>			

To \_\_\_\_\_  
Lloyds Bank plc

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## **Schedules**

The First Schedule - Description of Vessel

The Second Schedule - The Prior Mortgage(s)

THIS DEED OF COVENANTS  
is made on the

(day)

6

day of

(month)

MARCH

(year)

2019

BETWEEN

Red Ensign Ltd (company registered number 05331078) of 105 Medina Village, Bridge Road, Cowes, Isle of Wight, PO31 7LP

(hereinafter called the "Mortgagor" AND Lloyds Bank plc (Registered number 2065)(hereinafter called "the Bank")

Address for communications with the Bank under this Deed is Pendeford Securities Centre, Pendeford Business Park, Wobaston Road, Wolverhampton, WV9 5HZ. Dept.3282 and/or at such other address as the Bank may from time to time notify to the Mortgagor in writing for this purpose.

## 1. DEFINITIONS AND INTERPRETATION

1.1 In this Deed, so far as the context admits, the following words and expressions shall have the following meanings:

"Insolvency Event" in relation to the Mortgagor means each of the following:

- (a) a meeting is convened for the purpose of considering a resolution to wind up the Mortgagor;
- (b) such a resolution as is mentioned in paragraph (a) is passed;
- (c) a meeting of the directors or members of the Mortgagor (or where the Mortgagor is a partnership or acting on behalf of a partnership the partners in any such partnership) is convened for the purpose of considering a resolution to seek a winding up order, an administration order or the appointment of an administrator;
- (d) such a resolution as is mentioned in paragraph (c) is passed;
- (e) a petition for a winding up or for bankruptcy or an application for an administration order is made by the Mortgagor or its directors or members (or where the Mortgagor is a partnership or acting on behalf of a partnership the partners in any such partnership) or is presented against the Mortgagor;
- (f) such an order as is mentioned in paragraph (e) is made;
- (g) a notice of appointment of or notice of intention to appoint an administrator is issued by the Mortgagor or its directors or members (or where the Mortgagor is a partnership or acting on behalf of a partnership the partners in any such partnership) or by the holder of a qualifying floating charge or a proposal is made for, or the Mortgagor becomes subject to, any voluntary arrangement;
- (h) a receiver (administrative or otherwise) is appointed over all or part of the Mortgagor's assets;

- (i) the Mortgagor takes part in any action (including entering negotiations) with a view to readjustment, rescheduling, forgiveness or deferral of any part of the Mortgagor's indebtedness;
- (j) the Mortgagor proposes or makes any general assignment, composition or arrangement with or for the benefit of all or some of the Mortgagor's creditors;
- (k) the Mortgagor suspends or threatens to suspend making payments to all or some of the Mortgagor's creditors;
- (l) any action is taken in any jurisdiction which is similar or analogous to any of the foregoing; or
- (m) the Bank has reasonable grounds for believing that any of the foregoing is imminent;

;

**"Mortgage"** means the mortgage of even date herewith made between the Mortgagor (1) and the Bank (2) over sixty-four sixty-fourth shares of and in the Vessel;

**"Mortgaged Assets"** means the Vessel, and all of the other assets and rights assigned under or pursuant to this Deed, and such expression shall include all or any part thereof;

**"Prior Mortgage(s)"** means the prior mortgage(s) or charge(s) (if any) mentioned in the Second Schedule;

**"Register"** means the UK Ship Register

**"Secured Obligations"** means:

- (a) all money and liabilities and other sums hereby agreed to be paid by the Mortgagor to the Bank; and
- (b) all other money and liabilities expressed to be secured hereby (including, without limitation, any expenses and charges arising out of or in connection with the acts or matters referred to in clauses 6, 8, 13, 17 and 24) and all other obligations and liabilities of the Mortgagor under the Mortgage and/or this Deed;

**"Value Added Tax"** includes any other form of sales or turnover tax; and

**"Vessel"** means the vessel described in the First Schedule together with (whether now owned or subsequently acquired):

- (a) all engines, machinery, boats, tackle, outfit, spare gear and equipment, fuel, consumable and other stores, belongings and appurtenances whether on board or ashore; and
- (b) all additions, improvements and replacements subsequently made to or in the vessel.

1.2 In this Deed:



- (a) the expressions the "**Mortgagor**" and the "**Bank**" where the context admits include their respective successors in title and/or assigns, whether immediate or derivative. Any appointment or removal under clause 9 or consents under the Mortgage or this Deed may be made or given in writing signed or sealed by any such successors or assigns of the Bank and the Mortgagor hereby irrevocably appoints each of such successors and assigns to be its attorney in the terms and for the purposes set out in clause 12;
- (b) unless the context requires otherwise:
- (i) the singular shall include the plural and vice versa;
  - (ii) any reference to a person shall include an individual, company, corporation, limited liability partnership or other body corporate, joint venture, society or an unincorporated association, organisation or body of persons (including without limitation a trust and partnership) and any government, state, government or state agency or international organisation whether or not a legal entity. References to a person also include that person's successors and assigns whether immediate or derivative;
  - (iii) the expression "**this Deed**" means this deed and shall extend to every separate and independent stipulation contained herein;
  - (iv) any right, entitlement or power which may be exercised or any determination which may be made by the Bank under or in connection with the Mortgage or this Deed may be exercised or made in the absolute and unfettered discretion of the Bank which shall not be under any obligation to give reasons therefor;
  - (v) references to any statutory provision (which for this purpose means any Act of Parliament, statutory instrument or regulation or European directive or regulation or other European legislation) shall include a reference to any modification, re-enactment or replacement thereof for the time being in force, all regulations made thereunder from time to time and any analogous provision or rule under any applicable foreign law;
  - (vi) for the avoidance of any doubt, the rights, powers and discretions conferred upon the Bank by or pursuant to this Deed shall (unless otherwise expressly stated) apply and be exercisable regardless of whether a demand has been made by the Bank for the payment of the Secured Obligations or any of them and regardless of whether the power of sale or other powers and remedies conferred on mortgagees by the Law of Property Act 1925, the Merchant Shipping Act 1995 or this Deed shall have arisen or become exercisable; and
  - (vii) references to clauses, sub-clauses and schedules shall be references to clauses, sub-clauses and schedules of this Deed.

- (c) if for any reason whatsoever the Mortgage or this Deed shall not be, or shall cease to be, a valid and effective mortgage of the Vessel or assignment of the Mortgaged Assets then the Mortgage and this Deed shall take effect as a charge of the beneficial interest of the Mortgagor in the Mortgaged Assets;
- (d) if there are two or more parties comprised in the expression the "Mortgagor" then:
  - (i) any reference to the "Mortgagor" shall where the context permits include all or anyone or more of such parties;
  - (ii) all covenants and agreements herein contained or implied on the part of the Mortgagor shall be deemed to be joint and several covenants on the part of such parties;
  - (iii) if for any reason whatsoever the Mortgage or this Deed shall not be, or shall cease to be, binding on and effective against one or more of such parties, then the Mortgage and this Deed shall take effect as charges over the beneficial interest of the other such party or parties in the Mortgaged Assets and over such other estate, right, title or interest in the Mortgaged Assets as such other party or parties may have;
  - (iv) any demand made under this Deed shall be deemed to have been duly made if made on anyone or more of such parties; and
  - (v) if anyone or more of such parties is not bound by the provisions of this Deed (whether by reason of lack of capacity or improper execution of this Deed or for any other reason whatsoever) the remaining party or parties shall be and remain bound by the provisions of this Deed as if such other party or parties had never been party hereto.

1.3 The clause headings and marginal notes shall be ignored in construing this Deed.

1.4 The perpetuity period applicable to any trust constituted by this Deed shall be eighty years.

## 2. **AGREEMENT TO PAY**

The Mortgagor shall pay to the Bank in accordance with any relevant agreement between the Bank and the Mortgagor relating to the amounts hereby secured or, in the absence of any such agreement, on demand:

- (a) all money and liabilities whether actual or contingent (including further advances made hereafter by the Bank) which now are or at any time hereafter may be due, owing or incurred from or by the Mortgagor to the Bank anywhere or for which the Mortgagor may be or become liable to the Bank in any manner whatsoever without limitation (and (in any case) whether alone or jointly with any other person and in whatever style, name or form and whether as principal or surety and notwithstanding that the same may at any earlier time have been due, owing or incurred to some other person and have subsequently become due, owing or

incurred to the Bank as a result of a transfer, assignment or other transaction or by operation of law);

- (b) interest on all such money and liabilities to the date of payment at such rate or rates as may from time to time be agreed between the Bank and the Mortgagor or, in the absence of such agreement, at the rate, in the case of an amount denominated in Sterling, of two percentage points per annum above the Bank's base rate for the time being in force (or its equivalent or substitute rate for the time being) or, in the case of an amount denominated in any currency or currency unit other than Sterling, at the rate of two percentage points per annum above the cost to the Bank (as conclusively determined by the Bank) of funding sums comparable to and in the currency or currency unit of such amount in the London Interbank Market (or such other market as the Bank may select) for such consecutive periods (including overnight deposits) as the Bank may in its absolute discretion from time to time select; and
- (c) commission and other banking charges and legal, administrative and other costs, charges and expenses incurred by the Bank in relation to the Mortgagor, this Deed or the Mortgage, the Mortgaged Assets (including any acts necessary to release the Mortgaged Assets from this security and the Vessel from the Mortgage) or in preserving, defending or in enforcing the security created by this Deed or the Mortgage on a full and unqualified indemnity basis; and
- (d) any fees charged by the Bank for the time spent by the Bank's officials, employees or agents in dealing with any matter relating to this Deed or the Mortgage. Such fees shall be payable at such rate as may be specified by the Bank.

### **3. INTEREST**

The Mortgagor shall pay interest at the rate aforesaid on the money so due (whether before or after any judgment which may be obtained therefore) upon such days in each year as the Bank and the Mortgagor shall from time to time agree or, in the absence of such agreement, as the Bank shall from time to time fix, and (without prejudice to the right of the Bank to require payment of such interest) all such interest shall be compounded (both before and after any demand or judgment) upon such days in each year as the Bank shall from time to time fix.

### **4. ASSIGNMENT OF INSURANCE AND EARNINGS**

#### **4.1 As continuing security for the Mortgagor's obligations under the Mortgage and this Deed the Mortgagor with full title guarantee hereby assigns and agrees to assign to the Bank:**

- (a) all policies and contracts of insurance including without limitation all entries of and relating to the Vessel in protection and indemnity and war risks associations or clubs which have been or may in the future be taken out or entered into in respect of the Vessel, her freights, hire and passage moneys and earnings of whatsoever nature, and all the benefits thereof including all present and future claims thereunder of whatsoever nature and all returns of premiums;
- (b) all freights, hire and passage money, compensation payable or which may become payable to the Mortgagor in the event of requisition of the Vessel

for hire, remuneration for salvage and towage services, demurrage and detention moneys and any earnings and benefits of whatsoever nature due or to become due or available to the Mortgagor under any charter or other contract of employment now or hereafter entered into with regard to the Vessel and all money and benefits earned or to be earned by the Vessel and/or the Mortgagor in respect of the Vessel's operation as a passenger vessel;

- (c) all money and claims for money or damages arising out of the breach or termination of any contract or out of any tortious claim which may become due to the Mortgagor arising out of the employment, use, design or construction of the Vessel; and
- (d) all money claims for money and causes of action that are or may become due or accrue to the Mortgagor in respect of the actual, constructive, compromised, agreed or arranged total loss of the Vessel or requisition for title or other compulsory acquisition of the Vessel.

4.2 Without prejudice to the Bank's rights under this Deed, the Mortgagor shall be entitled to retain all earnings of the Vessel as referred to in sub-clause 4.1(b) for so long as such earnings are paid into the Mortgagor's account with the Bank and until either:

- (a) any such event as is referred to in sub-clause 9.1(a) occurs; or
- (b) the Bank requires, by notice in writing to the Mortgagor and without assigning any reason therefore, such earnings to be paid to or for the account of the Bank at such place as the Bank may specify in the said notice.

4.3 The security hereby constituted shall extend to all beneficial interests of the Mortgagor in the Mortgaged Assets and to any proceeds of sale or other realisations thereof or any part thereof.

4.4 This Deed and the Mortgage shall bind the Mortgagor as a continuing security for the Secured Obligations notwithstanding that the liabilities of the Mortgagor to the Bank may from time to time be reduced to nil.

## 5. FURTHER ASSURANCE

5.1 The Mortgagor shall at any time if and when required by the Bank execute and deliver to the Bank or as the Bank shall direct such further legal or other assignments, mortgages, securities, charges, agreements and other legal documentation or give any instructions or take any steps as the Bank shall require of and on all or any of the Mortgaged Assets to secure payment of the Secured Obligations. Such assignments, mortgages, securities, charges, agreements and other legal documentation shall be prepared by or on behalf of the Bank at the cost of the Mortgagor and shall contain all such clauses for the benefit of the Bank as the Bank may require including, if so required by the Bank, in the case of a mortgage or charge on the Mortgaged Assets, any such clauses as are contained in any of the Bank's standard forms of mortgage from time to time.

5.2 The Mortgagor shall at any time if and when required by the Bank at the Mortgagor's cost give notice to such persons as the Bank may require of the charges and assignments hereby effected and any such further legal or other assignments, mortgages, securities, charges, agreements and other legal documentation, and

shall take, do or execute steps, acts, deeds, documents and things as the Bank may consider necessary or desirable to give effect to and procure the perfection of the security intended to be granted by this the Mortgage or this Deed or such further legal or other assignments, mortgages, securities, charges, agreements or other legal documentation.

**6. INSURANCE COVENANTS**

The Mortgagor hereby covenants with the Bank that:

- (a) it shall at its own expense insure and at all times keep the Vessel insured in the name of the Mortgagor against fire and all usual marine risks (including excess risks, war risks and kindred perils and protection and indemnity risks including oil pollution and spillage risks) and such other risks as the Bank may for the time being require and effect and maintain such additional insurances as the Bank may for the time being require;
- (b) such insurances shall insure the Vessel on an agreed value basis in Sterling or such other currency as may be approved in writing by the Bank in such amounts and upon such terms as shall from time to time be approved and required by the Bank but in no event for less than the market value of the Vessel for the time being;
- (c) it shall effect such insurances through such brokers, insurance companies, underwriters and associations or clubs as the Bank shall, in its absolute discretion, approve;
- (d) it shall give instructions to renew all such insurances at least fourteen days before the same expire;
- (e) it shall punctually pay all premiums, calls and contributions falling due in respect of such insurances;
- (f) it shall arrange to provide to any protection and indemnity or war risks association or club in which the Vessel may from time to time be entered such guarantee as may be requested by such association or club guaranteeing contributions and calls due to such association or club;
- (g) it shall procure that notice of the assignment to the Bank of all policies, contracts of insurance and entries in respect of such insurances shall be endorsed thereon, and shall procure that the brokers and associations or clubs through whom such insurances have been placed or in which the Vessel has been entered shall give to the Bank such undertakings in relation thereto as the Bank may require;
- (h) it shall provide, or procure to be provided, to the Bank copies of all policies, slips, contracts of insurance, entries and receipts and information in relation to such insurances as the Bank may from time to time require;
- (i) it shall not employ or permit the Vessel to be employed in any manner inconsistent with the terms of any such insurances including any express or implied warranties therein, and shall not do or cause or permit to be done anything (including without limitation allowing the Vessel to enter a war zone as determined by insurers (including any association or club) or the Bank) whereby any such policy, contract of insurance or entry shall

be or may become void or voidable or cancelled in whole or in part or whereby cover may be permanently or temporarily lost in whole or in part without first obtaining the consent of the relevant insurers (including any association or club) and the Bank, confirmation from insurers (including any association or club) that the relevant insurances will remain in place and complying with such requirements as to additional premiums or otherwise as such insurers (including any association or club) shall require;

- (j) subject to sub-clause 6(l), it shall (unless and until otherwise required by the Bank) apply all sums received by the Mortgagor in respect of such insurances in making good all loss and damage in respect whereof such sums have been paid;
- (k) it shall procure that all policies and contracts of insurance taken out in respect of the Vessel shall be lodged with insurance brokers approved by the Bank or with the Bank itself;
- (l) notwithstanding the assignment referred to in sub-clause 4.1(a) all sums recoverable in respect of such insurances shall (unless and until any such event as is referred to in sub-clause 9.1(a) occurs, whereupon all insurance recoveries shall be receivable by the Bank or unless and until otherwise required by the Bank) be payable as follows:
  - (i) there shall be paid to the Bank all sums recoverable under such insurances in respect of an actual, constructive, arranged, agreed or compromised total loss of the Vessel and all sums recoverable under such insurances in respect of claims for any partial loss or losses exceeding 10% of the insured value of the Vessel for any one claim (inclusive of any deductible but excluding any sums payable to third parties under such insurances) provided that any insurance money received by the Bank (other than money in respect of an actual, constructive, arranged, agreed or compromised total loss of the Vessel) shall be paid over to the Mortgagor either upon the Mortgagor furnishing evidence satisfactory to the Bank that all loss and damage resulting from the casualty for which such money has been received has been previously made good and repaired and that all repair accounts and other liabilities whatsoever in connection with the casualty have been fully paid and discharged by the Mortgagor, or upon the Mortgagor furnishing to the Bank valid and reasonable invoices or claims for payment in respect of such repair or other work; and
  - (ii) all other sums recoverable in respect of such insurances shall be paid to the Mortgagor and shall be applied by it for the purpose of making good the loss and repairing the damage or meeting the liabilities for which the insurance money has been received;
- (m) it shall reimburse to the Bank the cost to the Bank of effecting and maintaining (which the Bank shall be entitled to do) in the name of the Bank mortgagee's interest insurance in relation to the Vessel for an amount not less than the sum referred to in sub-clause 6(b) and upon such terms as shall from time to time be required by the Bank, and

through such brokers, insurance companies and underwriters as the Bank shall in its absolute discretion select. Such cost shall bear interest from the date it is incurred by the Bank, computed and payable as provided in clauses 2 and 3 and, until payment, shall be secured hereby.

## **7. WARRANTIES AND GENERAL COVENANTS**

**7.1** The Mortgagor hereby warrants to the Bank (and agrees that such warranties shall be repeated each day during the subsistence of this Deed) that:

- (a) the Mortgagor is the sole and beneficial owner, and is lawfully possessed, of the Vessel free from any lien or encumbrance whatsoever other than the Mortgage;
- (b) neither the Mortgagor nor the master of the Vessel nor the charterer nor anyone acting on their or his behalf nor any other person has or shall have any right, power or authority to create, incur or permit to be placed or imposed or continued upon the Vessel any lien or encumbrance whatsoever other than a lien for crews' wages or salvage and other than the Mortgage;
- (c) the Mortgagor has made full disclosure in writing to the Bank of:
  - (i) any information relating to each part of the Mortgaged Assets and each right held by any other person in relation to any part of the Mortgaged Assets which, in each case, would be material to the Bank in relation to the appropriateness or adequacy of any part of the Mortgaged Assets as security for the Secured Obligations; and
  - (ii) each matter in respect of which the Bank has requested information from the Mortgagor in connection with the Mortgage and this Deed.
- (d) the Mortgagor has complied in full with all environmental laws and all environmental permits; and
- (e) there are no circumstances relating to the Mortgaged Assets which have led, or could lead, to a competent authority or a third party taking any action or making a claim under any environmental laws (including the requirement to clean up or remediate in any other way any contaminated part of the environment or the revocation, suspension, variation or non-renewal of any environmental permits) or which have led or could lead to the Mortgagor having to take action to avert the possibility of any such action or claim.

**7.2** The Mortgagor hereby covenants with the Bank:

- (a) to keep the Vessel registered as a British Passenger Vessel (pursuant to the Merchant Shipping Act 1988 as amended and supplemented by the Merchant Shipping (Registration, etc.) Act 1993 and the Merchant Shipping Act 1995) with full registration on Part 1 of the Register, and not to do or suffer to be done any act or thing whereby the registration of the Vessel may be imperilled, terminated or permitted to expire;

- (b) to pay and discharge or cause to be paid and discharged when due and payable from time to time all taxes, assessments, levies, governmental charges, fines and penalties lawfully imposed on the Vessel or on the Mortgagor and which attach or may attach to the Vessel and all claims which if not paid might cause a lien or encumbrance to be created, incurred, placed or imposed upon the Vessel;
- (c) at its own expense to comply with and satisfy all the requirements, regulations (whether statutory or otherwise) or provisions of any governmental or other competent authority of the United Kingdom or any amendment or variation for the time being thereof and any other applicable law or regulation, in order to maintain the registry of the Vessel and to establish and maintain the Mortgage as a first priority mortgage upon the Vessel and upon all renewals replacements and improvements made in or to the Vessel;
- (d) to place and at all times keep prominently displayed in the chart room and in the master's cabin of the Vessel or in some other prominent place on the Vessel previously agreed with the Bank a framed, printed notice in plain type of such size that the paragraph of reading material shall cover a space not less than six inches wide and nine inches high reading as follows:

**"NOTICE OF MORTGAGE"**

"THIS VESSEL IS BY A FIRST PRIORITY MORTGAGE IN FAVOUR OF LLOYDS BANK PLC WHOSE REGISTERED OFFICE IS AT 25 GRESHAM STREET, LONDON, EC2V 7HN MORTGAGED TO THE SAID LLOYDS BANK PLC. UNDER THE TERMS OF THE SAID MORTGAGE NEITHER THE OWNERS OF THE VESSEL NOR ANY CHARTERER NOR THE MASTER OF THE VESSEL NOR ANY OTHER PERSON HAS ANY RIGHT POWER OR AUTHORITY TO CREATE INCUR OR PERMIT TO BE IMPOSED UPON THIS VESSEL ANY LIEN WHATSOEVER OTHER THAN FOR CREWS WAGES OR SALVAGE"

- (e) that if a writ of arrest be filed against the Vessel or if the Vessel is otherwise attached, arrested, detained, levied upon or taken into custody by virtue of any legal proceedings in any court or tribunal or by any government or other authority the Mortgagor shall promptly notify the Bank thereof by facsimile confirmed by letter, and within fifteen days shall cause the Vessel to be released and all liens thereon (other than the Mortgage) to be discharged, and shall promptly notify the Bank thereof in the manner aforesaid;
- (f) that the Mortgagor shall at all times and without cost or expense to the Bank:
  - (i) maintain and preserve or cause to be maintained and preserved the Vessel in good running order and repair so that the Vessel shall be tight, staunch, strong and well and sufficiently tackled, apparelled, furnished, equipped, and in every respect seaworthy and in good operating condition in accordance with first class management practice;
  - (ii) maintain the class of the Vessel with Lloyds Register of Shipping or such other classification bureau or society as shall



- be acceptable to the Bank free of recommendations and notations;
- (iii) keep the Vessel or cause her to be kept in such condition as will entitle her to the highest classification and rating for vessels of the same age and type with Lloyds Register of Shipping or in such other classification bureau or society as shall be acceptable to the Bank;
  - (iv) arrange that Lloyds Register of Shipping or the classification bureau or society confirms in writing to the Bank each year and furnish annually to the Bank a certificate by Lloyds Register of Shipping or such bureau or society that such classification is maintained;
  - (v) arrange for such survey and inspections by Lloyds Register of Shipping or the classification bureau or society as are required by its rules and provide the bank with copies of such reports in relation to surveys and inspections as the Bank may require;
- (g) that the Vessel shall at all times comply with all applicable laws, treaties and conventions and rules and regulations issued thereunder and shall have on board as and when required thereby valid certificates showing compliance therewith;
- (h) without prejudice to sub-clause 7.2(g), to comply with the requirements of the IMO International Safety Management Code and to hold a valid document of compliance and ensure that the Vessel is in possession of a valid safety management certificate;
- (i) that the Mortgagor shall:
- (i) promptly notify the Bank of any legal proceedings against the Mortgagor in connection with or otherwise relating to the Vessel anywhere in the world;
  - (ii) promptly notify the bank of any casualty or damage to the Vessel where the estimated costs of repair exceed 10% (or such other percentage as the Bank may for the time being notify to the Mortgagor) of the value for which the Vessel should be insured in accordance with this Deed or where the Vessel is a total loss;
  - (iii) promptly notify the bank of any incident which might give rise to a claim under any environmental laws;
  - (iv) at all reasonable times afford the Bank or its authorised representatives full and complete access to the Vessel for the purpose of inspecting the same and her cargo and papers, and at the written request of the Bank the Mortgagor shall promptly deliver for inspection copies of any and all contracts and documents relating to the Vessel whether on board or not;
- (j) that the Mortgagor shall duly perform (unless prevented by force majeure) any and all charterparties and any other contracts of

employment which are or may be entered into with respect to the Vessel;

- (k) that the Mortgagor shall keep proper books of account in respect of the Vessel and her earnings and operations, and as and when required by the Bank shall make such books available for inspection by the Bank or its authorised representatives;
- (l) that the Vessel will not be operated in any manner contrary to any applicable law or regulation to which the Vessel or the Mortgagor shall from time to time be subject, and the Mortgagor shall not engage in any unlawful trade or violate any applicable law or regulation or carry any cargo that will expose the Vessel to penalties, forfeiture, capture, seizure or destruction, and shall not do or suffer or permit to be done *anything which can or may injuriously affect the registration of the Vessel under the laws of the United Kingdom*, and will at all times keep the Vessel duly documented thereunder;
- (m) that no substantial change in the structure, type or speed of the Vessel or change in her rig will be made without first receiving the written approval of the Bank therefore;
- (n) that the Mortgagor shall not:
  - (i) change the name of the Vessel or transfer or change the flag or port of registration of the Vessel without the written consent of the Bank first had and obtained, and then only subject to such terms as the Bank may impose, it being declared that the Bank shall be entitled without assigning any reason therefore to refuse such consent. Any such written consent to any one change of name or transfer or change of flag or port of registration shall not be construed to be a waiver of this provision with respect to any subsequent proposed change of name or transfer or change of flag or port of registration;
  - (ii) permit or arrange for the Vessel to go into a shipyard for the purpose of repairs or renewals without the written consent of the Bank where the repairs or renewals have a cost exceeding 10% (or such other percentage as the Bank may for the time being notify to the Mortgagor) of the value for which the Vessel should be insured in accordance with this Deed unless the shipyard has waived all rights to any possessory or other lien,
- (o) that the Mortgagor shall not sell, mortgage, hypothecate or otherwise assign or transfer any of the Mortgaged Assets or any share therein without the written consent of the Bank first had and obtained, and then only subject to such terms as the Bank may impose, it being declared that the Bank shall be entitled without assigning any reason therefore to refuse such consent. Any such written consent to any one sale, mortgage, hypothecation, assignment or transfer shall not be construed to be a waiver of this provision in respect to any subsequent proposed sale, mortgage, hypothecation, assignment or transfer of any of the Mortgaged Assets or any share therein, and any such sale, mortgage,

hypothecation, assignment or transfer shall be subject to the provisions of the Mortgage, the lien it creates and this Deed;

- (p) that the Mortgagor shall not, without the written consent of the Bank first had and obtained, and then only subject to such terms as the Bank may impose, it being declared that the Bank shall be entitled without assigning any reason therefore to refuse such consent, let the Vessel on demise or bareboat charter for any period whatsoever, nor without such written consent let the Vessel on time or consecutive voyage charter or place her under contract for employment for a period which (inclusive of any extension options) may exceed thirteen months' duration, nor upon terms whereby more than two months' hire is payable in advance or less than the open market rate of hire is payable;
- (q) that the Mortgagor shall not without the previous consent in writing of the Bank (such consent not to be unreasonably withheld) appoint a manager or managers of the Vessel, and any such appointment shall comply with sub-clause 7.2(s);
- (r) that the Mortgagor shall not enter into any agreement or arrangement whereby the earnings of the Vessel (as described in sub-clause 4.1(b)) may be shared with any other party;
- (s) that the Vessel shall at all times be managed and its operations controlled and directed from within the United Kingdom, and that any charterer, manager or operator of the Vessel is a person qualified to be the owner of a British Passenger Vessel registered on Part 1 of the Register;
- (t) on the written request of the Bank to provide satisfactory evidence that the wages, social security and national insurance contributions of the master and crew of the Vessel are being paid in accordance with the Vessel's articles of agreement and the relevant statutory provisions and contracts of employment, and to pay all the relevant authority all amounts deducted from the wages of the master and crew in respect of any tax liability (including PAYE) and social security and national insurance contributions;
- (u) to promptly provide the Bank with information concerning the classification, status, insurance, use, employment and position of the Vessel, when so requested by the Bank;
- (v) not do or fail to do or allow to be done anything that may adversely affect any rights of the Bank under the Mortgage or this Deed; and
- (w) to notify the Bank immediately on the occurrence of an Insolvency Event.

## **8. BANK'S POWERS**

8.1 *In addition to any other powers of the Bank (whether pursuant to the Mortgage or this Deed or otherwise), the Bank shall have:*

- (a) all the powers and remedies conferred on mortgagees by the Merchant Shipping Act 1995 and by the Law of Property Act 1925 but without the restriction on the exercise of the power of sale imposed by Section 103 of the Law of Property Act 1925; and

(b) all the powers and remedies conferred on a receiver by sub-clause 9.2.

- 8.2 The Bank in exercising its powers of sale under the Mortgage or this Deed, and any receiver appointed by the Bank in exercising his powers under the Mortgage or this Deed, shall be at liberty to sell at such price and on such terms and conditions as it or he in its or his sole discretion thinks fit, and shall not be under any duty or obligation to obtain the best or any particular price.
- 8.3 Neither the Bank nor any such receiver shall be liable to the Mortgagor or any other person for any loss, damage, cost, expense or liability which the Mortgagor or any such person may suffer or incur as a direct or indirect result of the Bank exercising its powers of sale under the Mortgage or this Deed or such receiver exercising his powers under the Mortgage or this Deed.
- 8.4 In favour of a purchaser the Secured Obligations shall be deemed to have become due on the day on which any of the events referred to in sub-clause 9.1(a) occurs, and the Bank's powers of sale under the Mortgage or this Deed shall be exercisable from and after that date, which date (without prejudice to the equitable right to redeem) shall be the redemption date.
- 8.5 If (in the Bank's opinion) default shall at any time be made by the Mortgagor in keeping the Vessel or any part thereof in a good state of repair or in effecting or keeping up any such insurance as is referred to in clause 6, it shall be lawful for but not obligatory on the bank (as the case may require) to repair the Vessel with power to enter the Vessel for that purpose, and any sums paid by the Bank for any such purpose shall be repayable by the Mortgagor to the Bank on demand with interest computed and payable as provided in clauses 2 and 3 from the date of payment by the Bank as aforesaid and, pending payment, shall be secured hereby.

## 9. APPOINTMENT AND POWERS OF A RECEIVER

### 9.1

(a) At any time after:

- (i) the Bank shall have demanded payment of any of the Secured Obligations; or
- (ii) the Mortgagor shall have requested it so to do; or
- (iii) an Insolvency Event shall have occurred; or
- (iv) the Mortgagor shall have abandoned the Vessel; or
- (v) the Vessel shall have become (or in the Bank's opinion, is at risk of becoming) an actual, constructive, agreed, compromised or arranged total loss; or
- (vi) the Vessel shall have been (or in the Bank's opinion, is at risk of being) captured, seized, compulsorily acquired or requisitioned for title;

the Bank shall have power by writing under the hand of any official of the bank authorised by the Bank from time to time or any person authorised by any such official in writing to appoint such person or persons as the Bank thinks fit to be a receiver or joint receivers or

several receivers or joint and several receivers of the Mortgaged Assets to act, in the case of two or more receivers, jointly, severally or jointly and severally in relation to any part of the Mortgaged Assets, and to the extent permitted by law similarly to remove any such receivers and to appoint another or others in his place.

- (b) Where the Bank excludes any part of the Mortgaged Assets from the appointment of a receiver, the Bank may subsequently extend that appointment (or that of any receiver replacing such receiver) to such excluded part of the Mortgaged Assets.

9.2 Any such receiver at the cost of the Mortgagor may in the name or on behalf of the Mortgagor or at his option in the name of the Bank (but only with the specific approval in writing of the Bank) or at his option in his own name (and in any case notwithstanding any bankruptcy, administration or liquidation of the Mortgagor) do or omit to do anything which the Mortgagor could do or omit to do in relation to the Mortgaged Assets or any of them, and (in addition) may exercise in relation thereto all or any of the powers specified in Schedule 1 to the Insolvency Act 1986 (notwithstanding that the receiver may not be an administrative receiver and notwithstanding that the Mortgagor may not be or include a company), and in particular (but without prejudice to the generality of the foregoing) any such receiver may:

- (a) deal with, take possession of, collect and get in the Mortgaged Assets;
- (b) carry on, manage, develop or diversify or concur in carrying on, managing, developing or diversifying any business of the Mortgagor at any time carried on by the Mortgagor in relation to the Vessel, and for any of those purposes receive, retain or use any proceeds, books or records of such business and carry out or complete (with or without modification) any works of repair, reconstruction, furnishing or re-equipping of the Vessel;
- (c) raise or borrow any money from or incur any other liability to the bank or any other person and on such terms as to interest or otherwise and with or without security as such receiver may think expedient, and so that any such security may, with the prior consent of the Bank, be or include a charge on the Mortgaged Assets ranking either in priority to or *pari passu* with or after the security created by this Deed or the Mortgage;
- (d) forthwith and without the restriction imposed by Section 103 of the Law of Property Act 1925 sell, realise, dispose of or concur in selling, realising or disposing of all or any part of the Mortgaged Assets;
- (e) carry any sale, exchange, realisation or other disposal of the Mortgaged Assets into effect by conveying, transferring or assigning in the name and on behalf of the Mortgagor, and so that covenants and contractual obligations may be granted in the name of and so as to bind the Mortgagor so far as such receiver may consider it necessary, appropriate or expedient for the exercise of the powers conferred by this Deed and the Mortgage so to do. Any such sale, exchange, realisation or disposal may be for cash, debentures or other obligations, shares, stock or other valuable consideration and may be payable in a lump sum or by instalments spread over such period as such receiver shall think fit, and so that any consideration received or receivable shall forthwith be and

become charged with the payment of the Secured Obligations. Plant, machinery and other fixtures may be severed and sold separately from the Vessel without the consent of the Mortgagor being obtained thereto;

- (f) apply for and obtain any approval, permission, consent and licence, enter into and perform contracts and arrangements, purchase materials and incur any type of obligation;
- (g)
  - (i) promote the formation of a subsidiary or subsidiaries of the Mortgagor with a view to such subsidiary or subsidiaries purchasing, chartering or otherwise acquiring interests in or the use of the Mortgaged Assets or with a view to such subsidiary or subsidiaries engaging employees or providing management or other services in connection therewith, or for any other purpose or function which may be regarded as necessary or appropriate by such receiver from time to time;
  - (ii) arrange for such subsidiary or subsidiaries to trade or cease to trade as such receiver may think fit from time to time;
  - (iii) arrange for the purchase, charge or acquisition of the Mortgaged Assets by such subsidiary or subsidiaries on a basis whereby the consideration may be cash, shares, debentures, loan stock, convertible loan stock or other securities, shares of profits or sums calculated by reference to profits or turnover or otherwise howsoever and whether or not secured on the assets of the subsidiary or subsidiaries and whether or not such consideration is payable or receivable in a lump sum or by instalments spread over such period, as such receiver may think fit;
- (h) take any proceedings in relation to the Mortgaged Assets in the name of the Mortgagor or otherwise as may seem expedient including (without prejudice to the generality of the foregoing) proceedings for the collection of charter hire in arrears at the date of his appointment;
- (i) enter into any agreement or make any arrangement or compromise as such receiver shall think expedient in respect of the Mortgaged Assets;
- (j) exercise the Mortgagor's rights under any charter hire review clause in respect of the Vessel;
- (k) insure the Mortgaged Assets and maintain or renew any insurance of the same in such manner as such receiver shall think fit or as the Bank shall from time to time direct;
- (l) appoint managers, agents, officers and employees for any of the aforesaid purposes at such salaries and for such periods as such receiver may determine, and dismiss any of the same;
- (m) adopt any contracts of employment entered into between the Mortgagor and any of its employees with such variations to the contracts as such receiver may think fit, and dismiss any such employees;

- (n) cause the Mortgagor to grant such powers of attorney or appoint agents for any of the aforesaid purposes as such receiver may from time to time think expedient;
  - (o) do all such things as may be thought necessary for the management of the affairs, business and property of the Mortgagor;
  - (p) require the Vessel to remain in port or (as the case may be) to proceed to and remain in a port designated by such receiver;
  - (q) pending sale of the Vessel, manage the Vessel and maintain and repair the Vessel and employ or lay up the Vessel in such manner and for such period as such receiver deems expedient, and enter into such arrangements respecting the Vessel or her insurance, management, maintenance, repair, classification and employment in all respects as such receiver deems expedient; and
  - (r) do all such other things as may from time to time be considered by such receiver to be incidental or conducive to any of the matters or powers aforesaid or otherwise incidental or conducive to the realisation of the Bank's security or the exercise of his functions as receiver.
- 9.3 Sub-section 109(8) of the Law of Property Act 1925 shall not apply, and all money received by such receiver shall be applied:
- (a) first in payment of his remuneration and the costs of realisation including all costs and expenses of or incidental to any exercise of any power hereby conferred;
  - (b) secondly, (subject to the rights (if any) of the holder(s) for the time being of the Prior Mortgage(s) (if any) and when so required) in or towards satisfaction of the Secured Obligations.
- 9.4 Any such receiver shall be deemed to be the agent of the Mortgagor who alone shall be responsible for his acts or defaults and for his remuneration.
- 9.5 Any such receiver shall be entitled to remuneration for his services and the services of his firm at a rate or rates or in an amount or amounts as may from time to time be agreed between the Bank and such receiver or (in default of agreement) as may be appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by such receiver in accordance with the current practice of such receiver or his firm, and without in either such case being limited by the maximum rate specified in Section 109(6) of the Law of Property Act 1925.
- 9.6 If the Bank shall appoint more than one receiver, the powers given to a receiver hereby and by statute shall be exercisable by all or any one or more of such receivers and any reference in this Deed to "receiver" shall be construed accordingly.
- 9.7 The powers conferred by this clause 9 shall be in addition to all powers given by statute to the Bank or to any such receiver.
- 9.8 Only money actually paid by such receiver to the Bank shall be capable of being applied by the Bank in or towards satisfaction of the Secured Obligations.

**10. PROTECTION OF THIRD PARTIES**

- 10.1 No person (each a "Third Party", including any insurer (including any association or club), assurer, purchaser or security holder) dealing with the Bank or any receiver appointed by it or their respective employees and agents need enquire:
- (a) whether any right, exercised or purported to be exercised by the Bank, such receiver or their respective employees and agents, has become exercisable; or
  - (b) whether any of the Secured Obligations are due or remain outstanding; or
  - (c) as to the propriety or regularity of anything done (including any sale, dealing or application of money paid, raised or borrowed) by the Bank, such receiver or their respective employees and agents.
- 10.2 Each of those things shall (as between that Third Party on the one hand and the Bank or any receiver appointed by it or their respective employees or agents on the other hand) be deemed to be exercisable, due, outstanding, proper, regular and within the terms of this Deed (as the case may be) and be fully valid and effective.
- 10.3 All the protections to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 and to persons contained in Section 42(3) of the Insolvency Act 1986 apply to each Third Party.
- 10.4 The Bank, any receiver appointed by it and their respective employees and agents may give receipts to any Third Party. The Mortgagor agrees that each receipt will be an absolute and conclusive discharge to such Third Party and will relieve such Third Party of any obligations to see to the application of any assets paid or transferred to or by the direction of the Bank, such receiver, employee or agent.

**11. MORTGAGOR'S OBLIGATION TO DELIVER UP VESSEL**

Whenever any right to enter and take possession of the Vessel accrues to the Bank or any receiver appointed by the Bank, it or such receiver may require the Mortgagor to deliver, and the Mortgagor shall on demand at its own cost and expense, deliver the Vessel to such place and in such manner as demanded by the Bank or such receiver.

**12. POWER OF ATTORNEY**

- 12.1 For the purpose of securing the performance of the Secured Obligations and for securing any proprietary interest which the Bank has in any of the Mortgaged Assets, the Mortgagor irrevocably appoints the Bank and the persons deriving title under it and its and their substitutes and any receiver or receivers appointed under the Mortgage or this Deed (the "Attorney") jointly and also severally to be the Mortgagor's true and lawful attorney. For the purposes aforesaid, the Attorney shall have the right to do anything which the Mortgagor may lawfully do and all the rights and powers which may lawfully be given to an attorney including, without prejudice to the generality of the foregoing:
- (a) the right to do anything to procure or carry out the performance of the obligations of the Mortgagor under this Deed and the Mortgage and anything to facilitate the exercise of the Bank's rights under this Deed and the Mortgage;



- (b) the right to act in the name of the Mortgagor;
- (c) the right to delegate and sub-delegate any or all of the rights of the Attorney;
- (d) the right to sign, execute, seal, deliver and otherwise perfect:
  - (i) any documents or instruments which the Bank may require for perfecting any of the title to the Bank of the Mortgaged Assets or for vesting the same in the Bank, its nominees or any purchaser; and
  - (ii) any further security documentation referred to in clause 5.

12.2 The Mortgagor ratifies and shall ratify everything done or purported to be done by the Attorney.

### 13. INDEMNITY

13.1 The Mortgagor hereby agrees to indemnify the Bank and any receiver appointed by it and their respective employees and agents (as a separate covenant with each such person indemnified) against:

- (a) all existing and future taxes, duties, charges, assessments and outgoings now or at any time payable in respect of the Mortgaged Assets or by the owner or charterer of the Vessel; and
- (b) all costs, claims, demands, expenses, charges, assessments, impositions, fines and sums, and the consequences of any proceedings or prosecutions, arising directly or indirectly from or in connection with any breach by the Mortgagor of any law;

in each case whether imposed by statute or otherwise and whether of the nature of capital or revenue and even though of a wholly novel character. If any such sums shall be paid by the Bank or any such receiver or any of their respective employees or agents, the same shall be paid by the Mortgagor on demand with interest computed and payable as provided in clauses 2 and 3 from the time or respective times of the same having been paid or incurred and, pending payment, shall be secured hereby, but the Bank shall not be deemed to have taken possession of the Mortgaged Assets by reason of such payment.

13.2 The Mortgagor hereby agrees to indemnify the Bank and any receiver appointed by it and their respective employees and agents (as a separate covenant with each such person indemnified) against all loss incurred in connection with:

- (a) any statement made by the Mortgagor or on the Mortgagor's behalf in connection with the Mortgage, this Deed, the Mortgaged Assets or the business of the Mortgagor being untrue or misleading;
- (b) the Bank entering into any obligation with any person (whether or not the Mortgagor) at the request of the Mortgagor (or any person purporting to be the Mortgagor);
- (c) any actual or proposed amendment, supplement, waiver, consent or release in relation to the Mortgage or this Deed;

- (d) the Mortgagor not complying with any of its obligations under the Mortgage or this Deed; and
- (e) any stamping or registration of the Mortgage or this Deed or the security constituted by them;

whether or not any fault (including negligence) can be attributed to the Bank or any receiver appointed by it or their respective employees and agents.

13.3 This indemnity does not and shall not extend to any loss to the extent that:

- (a) in the case of any loss incurred by the Bank or its employees or agents it arises from the Bank or its employees or agents acting other than in good faith; or
- (b) in the case of any loss incurred by the receiver or his employees or agents it arises from the receiver or his employees or agents acting other than in good faith; or
- (c) there is a prohibition against an indemnity extending to that loss under any law relating to this indemnity.

#### 14. NOTICE OF SUBSEQUENT CHARGES

If the Bank receives notice of any subsequent assignment, mortgage, security, charge or other interest affecting the Mortgaged Assets the Bank may open a new account or accounts. If the Bank does not open a new account it shall nevertheless be treated as if it had done so at the time when it received such notice, and as from that time all payments made to the Bank in respect of any account(s) secured by this Deed shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Mortgagor to the Bank at the time when it received the notice.

#### 15. NOTICES AND DEMANDS

15.1 Without prejudice to the provisions of sub-clause 1.2(d)(iv) any notice or demand by the Bank to or on the Mortgagor shall be deemed to have been sufficiently given or made if sent to the Mortgagor:

- (a) by hand or prepaid letter post to its address stated herein or its address last known to the Bank or (if the expression "Mortgagor" is or includes a company or limited liability partnership) the registered office of the company or limited liability partnership; or
- (b) by facsimile to the Mortgagor's last known facsimile number relating to any such address or office

15.2 Without prejudice to the provisions of sub-clause 1.2(d)(iv) any such notice or demand given or made under sub-clause 15.1 shall be deemed to have been served on the Mortgagor:

- (a) at the time of delivery to the address referred to in sub-clause 15.1(a), if sent by hand;
- (b) at the earlier of the time of delivery or 10.00 am on the day after posting (or, if the day after posting be a Sunday or any other day upon which no

delivery of letters is scheduled to be made, at the earlier of the time of delivery or 10.00 am on the next succeeding day on which delivery of letters is scheduled to be made), if sent by prepaid letter post;

- (c) at the time of transmission, if sent by facsimile (and a facsimile shall be deemed to have been transmitted if it appears to the sender to have been transmitted from a machine which is apparently in working order); or
- (d) on the expiry of 72 hours from the time of despatch in any other case.

15.3 In the case of the death of the Mortgagor, and until the Bank receives notice in writing of the grant of probate of the will or letters of administration in respect of the estate of the Mortgagor, any notice or demand by the Bank sent by any of the methods as aforesaid shall for all purposes be deemed a sufficient notice or demand by the Bank to his personal representatives.

15.4 Service of legal proceedings in the manner described in sub-clause 15.1(a) shall be deemed to constitute good service.

15.5 Any notice or communication required to be served by the Mortgagor on the Bank under the terms of this Deed shall be in writing and delivered by hand or sent by recorded delivery to the Bank at the Bank's address stated herein (or at such other address as may be notified in writing by the Bank to the Mortgagor for this purpose) and will be effective only when actually received by the Bank. Any notice or communication must also be marked for the attention of such official (if any) as the Bank may for the time being have notified to the Mortgagor in writing.

## 16. CURRENCY CONVERSION

The Bank may at its sole discretion from time to time with or without notice to the Mortgagor, elect to convert all or any part of any sum received by the Bank pursuant to the Mortgage or this Deed (in whole or in part) into the currency or currency unit or currencies or currency units of the whole or any part of the Secured Obligations (deducting from the proceeds of the conversion any currency premium or other expense). The Bank may take any such action as may be necessary for this purpose, including without limitation opening additional accounts. The rate of exchange shall be the Bank's spot rate for selling the currency or currency unit or currencies or currency units of the Secured Obligations or relevant part thereof for the currency or currency unit of the sum received by the Bank under the Mortgage or this Deed at or about 11.00 am in London on the date that the Bank exercises its right of conversion under this Deed.

## 17. PAYMENTS AND COSTS

17.1 If at any time the currency in which all or any part of the Secured Obligations is denominated is, is due to be or has been converted into the euro or any other currency as a result of a change in law or by agreement between the Bank and the relevant obligor, then the Bank may in its sole discretion direct that all or any of the Secured Obligations shall be paid in the euro or such other currency or in any currency unit.

17.2 The Bank may apply, allocate or appropriate the whole or any part of any payment made by the Mortgagor under the Mortgage or under this Deed or any money received by the Bank under any guarantee or third party security or from any receiver appointed by the Bank under the Mortgage or this Deed, or from any

trustee in bankruptcy, liquidator or administrator of the Mortgagor, or from the proceeds of realisation of any part of the Mortgaged Assets, to such part or parts of the Secured Obligations (or as the Bank may otherwise be entitled to apply, allocate or appropriate the same) as the Bank may in its sole discretion think fit, to the entire exclusion of any right of the Mortgagor to so do.

17.3 If any payment made by or on behalf of the Bank under the Mortgage or this Deed includes an amount in respect of Value Added Tax, or if any payment due to the Bank under the Mortgage or this Deed shall be in reimbursement of any expenditure by or on behalf of the Bank which includes an amount in respect of Value Added Tax, then such amount shall be payable by the Mortgagor to the Bank on demand with interest from the date of such demand, computed and payable as provided in clauses 2 and 3 and, pending payment, shall be secured hereby.

17.4 Without prejudice to the generality of clauses 2 and 9, the Mortgagor shall pay to the Bank (on a full and unqualified indemnity basis) all costs incurred or suffered by the Bank, and any receiver appointed by the Bank shall be entitled to recover as a receivership expense all costs incurred or suffered by him:

- (a) in connection with any application under Part III of the Insolvency Act 1986;
- (b) in defending proceedings brought by any third party impugning the Bank's title to this security or the enforcement or exercise of the rights and remedies of the Bank or of any such receiver under the Mortgage or this Deed; and
- (c) (in the case of the Bank only) in connection with effecting any appointment of any receiver or administrator or in dealing with any appointment of, or notice of intention or application to appoint, any receiver or administrator by any party including the Mortgagor and without prejudice to any other right or process of recovering such costs.

All such costs shall bear interest from the date such costs were incurred or suffered, computed and payable as provided in clauses 2 and 3 and, pending payment, shall be secured hereby.

17.5 All costs awarded to the Bank or agreed to be paid to the Bank in any proceedings brought by the Mortgagor against the Bank shall bear interest from the date of such award or agreement, computed and payable as provided in clauses 2 and 3 and, pending payment, shall be secured hereby.

#### 18. **NON-MERGER, ETC.**

18.1 Nothing herein contained shall operate so as to merge or otherwise prejudice or affect any bill, note, guarantee, mortgage or other security or any contractual or other right which the Bank may at any time have for any of the Secured Obligations or any right or remedy of the Bank thereunder. Any receipt, release or discharge of the security provided by, or of any liability arising under, the Mortgage or this Deed shall not release or discharge the Mortgagor from any liability to the Bank for the same or any other money which may exist independently of the Mortgage or this Deed, nor shall it release or discharge the Mortgagor from any liability to the Bank under the indemnity contained in clause 13.

18.2 Where the Mortgage or this Deed initially takes effect as a collateral or further security, then notwithstanding any receipt, release or discharge endorsed on or

given in respect of the money and liabilities owing under the principal security to which the Mortgage or this Deed operates as a collateral or further security, the Mortgage and this Deed shall be independent securities for the Secured Obligations.

- 18.3 The Mortgage and this Deed are in addition to and are not to prejudice or be prejudiced by any other security or securities now or hereafter held by the Bank.

**19. TRANSFERS BY THE BANK OR THE MORTGAGOR**

- 19.1 The Bank may freely and separately assign or transfer any of its rights under the Mortgage or this Deed or otherwise grant an interest in any such rights to any person or persons. On request by the Bank, the Mortgagor shall immediately execute and deliver to the Bank any form of instrument required by the Bank to confirm or facilitate any such assignment or transfer or grant of interest.

- 19.2 The Mortgagor shall not assign or transfer any of the Mortgagor's rights or obligations under the Mortgage or this Deed or enter into any transaction or arrangement which would result in any of those rights or obligations passing to or being held in trust for or for the benefit of another person.

**20. PARTIAL INVALIDITY**

Each of the provisions of this Deed shall be severable and distinct from one another and, if at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

**21. RESTRICTION ON LIABILITY OF THE BANK**

Except to the extent that any such exclusion is prohibited or rendered invalid by law, neither the Bank nor any receiver appointed by it nor their respective employees and agents shall:

- (a) be liable to account as a mortgagee in possession for any sums other than actual receipts;
- (b) be liable for any loss upon realisation of, or for any action, neglect or default of any nature whatsoever in connection with, any part of the Mortgaged Assets for which a mortgagee in possession might as such otherwise be liable;
- (c) be under any duty of care or other obligation of whatsoever description to the Mortgagor in relation to or in connection with the exercise of any right conferred upon the Bank, any receiver appointed by it and their respective employees and agents; or
- (d) be under any liability to the Mortgagor as a result of, or in consequence of, the exercise of, or attempted or purported exercise of, or failure to exercise, any of their respective rights.

**22. CONCLUSIVE EVIDENCE**

A certificate signed by the Bank as to the Secured Obligations shall (save for manifest error) be binding and conclusive on the Mortgagor in any legal proceedings both in relation to the existence of the liability and as to the amount thereof.

**23. NO RELIANCE ON THE BANK**

23.1 The Mortgagor acknowledges to and agrees with the Bank that, in entering into this Deed and the Mortgage and incurring the Secured Obligations:

- (i) the Mortgagor has not relied on any oral or written statement, representation, advice, opinion or information made or given to the Mortgagor in good faith by the Bank or any body on the Bank's behalf and the Bank shall have no liability to the Mortgagor if the Mortgagor has in fact so done;
- (ii) the Mortgagor has made, independently of the Bank, the Mortgagor's own assessment of the viability and profitability of any purchase, project or purpose for which the Mortgagor has incurred the Secured Obligations and the Bank shall have no liability to the Mortgagor if the Mortgagor has not in fact so done; and
- (iii) there are no arrangements, collateral or relating to this Deed and the Mortgage, which have not been recorded in writing and signed on behalf of the Bank and the Mortgagor.

23.2 The Mortgagor agrees with the Bank that the Bank did not have prior to the date of this Deed, does not have and shall not have any duty to the Mortgagor:

- (i) in respect of the application by the Mortgagor of the money hereby secured;
- (ii) in respect of the effectiveness, appropriateness or adequacy of the security constituted by this Deed and the Mortgage or of any other security for the Secured Obligations; or
- (iii) to preserve the goodwill or any business carried on by the Mortgagor by running, or procuring the running of, such business or otherwise, either before or after the enforcement of this Deed and the Mortgage.

23.3 The Mortgagor agrees with the Bank for itself and as trustee for its officials, employees and agents that neither the Bank nor its officials, employees or agents shall have any liability to the Mortgagor in respect of any act or omission by the Bank, its officials, employees or agents done or made in good faith.

**24. PRIOR MORTGAGE(S)**

24.1 Any sale in exercise of the statutory or other powers and remedies may be made either subject to or discharged from all or any of the Prior Mortgage(s), and the Bank or any such receiver may settle and pass the accounts of any person or persons in whom all or any of the Prior Mortgage(s) may for the time being be vested, and any account so settled and passed shall as between the Bank or any such receiver and the Mortgagor be deemed to be properly settled and passed and shall be binding on the Mortgagor accordingly.

24.2 If the person or persons entitled to the benefit of all or any of the Prior Mortgage(s) shall call in the money thereby secured or shall take any step to enforce all or any of the Prior Mortgage(s), the Bank or any receiver appointed by it may thereupon pay off all or any of the Prior Mortgage(s) and take a transfer of the benefit thereof, and the money so expended by the Bank or any such receiver and all costs of and incidental to the transaction incurred by the Bank or any such receiver shall

be secured hereby and shall bear interest computed and payable as provided in clauses 2 and 3 from the date of the same having been expended.

- 24.3 The Mortgagor shall pay all sums when due and comply with all obligations under the Prior Mortgage(s).
- 24.4 The Mortgagor shall not (without obtaining the Bank's prior written consent) increase the principal amount secured by the Prior Mortgage(s) in priority to the Mortgage and/or this Deed.
25. **MISCELLANEOUS**
- 25.1 Any amendment of or supplement to any part of the Mortgage or this Deed shall only be effective and binding on the Bank and the Mortgagor if made in writing and signed by both the Bank and the Mortgagor. References to "this security", "this Deed" or to "the Mortgage" include each such amendment and supplement relating thereto.
- 25.2 The Mortgagor and the Bank shall from time to time amend the provisions of this Deed if the Bank notifies the Mortgagor that any amendments are required to ensure that this Deed reflects the market practice prevailing at the relevant time following the introduction or extension of economic and monetary union and/or the euro in all or in any part of the European Union.
- 25.3 The Bank and the Mortgagor agree that the occurrence or non-occurrence of European economic and monetary union, any event or events associated with European economic and monetary union and/or the introduction of any new currency in all or any part of the European Union will not result in the discharge, cancellation, rescission or termination in whole or in part of the Mortgage or this Deed or give any party hereto the right to cancel, rescind, terminate or vary the Mortgage or this Deed in whole or in part.
- 25.4 Any waiver, consent, receipt, settlement or release given by the Bank in relation to the Mortgage or this Deed shall only be effective if given in writing and then only for the purpose for and upon any terms on which it is given.
- 25.5 For the purpose of exercising, assigning or transferring its rights under the Mortgage and this Deed, the Bank may disclose to any person any information or advice relating to the Mortgagor which the Bank has at any time.
- 25.6 The restriction on the right of consolidating mortgages contained in Section 93 of the Law of Property Act 1925 shall not apply to the Mortgage or this Deed or any further or other security entered into pursuant to this Deed.
- 25.7 Any change in the constitution of the Bank or its absorption of or amalgamation with any other person shall not in any way prejudice or affect its or their rights under the Mortgage or this Deed, and the expression "Bank" shall include any such other person.
- 25.8 The Bank shall be entitled to debit any account for the time being of the Mortgagor with the Bank with any sum falling due to the Bank under the Mortgage or this Deed.
- 25.9 This document and the Mortgage shall at all times be the property of the Bank.

25.10 Where the expression "Mortgagor" is or includes an individual then, notwithstanding anything else herein contained:

- (a) the charges herein created shall not include or extend to any item belonging to the Mortgagor (or any party comprised in the expression the "Mortgagor") or in which the Mortgagor (or such party) may have an interest being an item which would or would be deemed to be a "personal chattel" within the Bills of Sale Act 1878 if and to the extent that the inclusion of the item would lead to this Deed being a bill of sale to which the Bills of Sale Acts 1878 and 1882 apply; and
- (b) the powers expressed to be conferred by this Deed on a receiver or on the Bank, and the other provisions of this Deed, shall not be of any effect insofar as (but only insofar as) they would otherwise cause this Deed to be such a bill of sale.

**26. LAW AND JURISDICTION**

26.1 This Deed and the Mortgage and any dispute (whether contractual or non-contractual, including, without limitation, claims in tort, for breach of statutory duty or on any other basis) arising out of or in connection with either of them or their subject matter ("Dispute") shall be governed by and construed in accordance with the law of England and Wales.

26.2 The parties to this Deed irrevocably agree, for the sole benefit of the Bank, that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any Dispute. Nothing in this clause shall limit the right of the Bank to take proceedings against the Mortgagor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction. In particular but without limitation the Bank shall have the right to arrest and take action against the Vessel and/or any other vessel for the time being belonging to the Mortgagor at whatever place the Vessel or such vessel shall be found lying, and for the purpose of proceedings against the Vessel (and subject to any legal or procedural requirements at such place) any writ, notice, judgment or other legal process or document may be served upon the Mortgagor or its agents and such service shall be deemed good service on the Mortgagor for all purposes.

**IN WITNESS** whereof the Mortgagor has executed this Deed as a deed and has delivered it upon its being dated.



**THE FIRST SCHEDULE****DESCRIPTION OF VESSEL**

"MSV Explorer" Work Boat	
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Official number	Year and port of registry
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917988	2011 - Cowes
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**THE SECOND SCHEDULE****THE PRIOR MORTGAGE(S)**

Insert particulars of prior mortgage(s).

Date of prior mortgage(s)	Parties
---------------------------	---------

13 October 2016	Lloyds Bank Plc Commercial Finance
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Use this execution clause if the Mortgagor is an individual or individuals.

Signed as a deed by

Name

Signature

In the presence of

Witness' name

Witness' Signature

Witness' Address

Witness' occupation

Signed as a deed by

Name

Signature

In the presence of

Witness' name

Witness' Signature

Witness' Address

Witness' occupation

Use this execution clause if the Mortgagor is a Company and is to execute acting by two directors or one director and the company secretary.

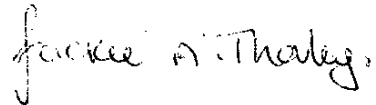
Executed as a deed by

RAD ENSIGN LIMITED

acting by



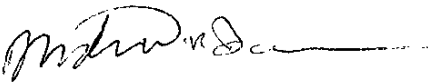
Director



Director/Company Secretary

Use this execution clause if the Mortgagor is a Company and is to execute acting by only one director.

Executed as a deed by



acting by

Director

In the presence of

Witness' name

Witness' Signature

Witness' Address

Witness' occupation