



Registration of a Charge

Company name: **MAINE TRADER MARITIME LIMITED**

Company number: **13120229**



X9Y5UBSG

Received for Electronic Filing: **12/02/2021**

Details of Charge

Date of creation: **29/01/2021**

Charge code: **1312 0229 0003**

Persons entitled: **HAYFIN SERVICES LLP**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Chargor acting as a bare trustee for the property.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **CERTIFIED THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

REED SMITH



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 13120229

Charge code: 1312 0229 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th January 2021 and created by MAINE TRADER MARITIME LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th February 2021 .

Given at Companies House, Cardiff on 15th February 2021

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 29 January 2021

- (1) EACH OF THE ENTITIES LISTED IN SCHEDULE 1
(as Borrowers)
- (2) BIRCH SHIPHOLDING LIMITED
(as HoldCo)
- (3) BEECH SHIPHOLDING LIMITED
(as Intermediate HoldCo)
- (4) HAYFIN SERVICES LLP
(as Security Agent)

**DEED OF SUBORDINATION AND
ASSIGNMENT**

REFERENCE: 382792.00131

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THIS DEED is dated 29 January 2021.

BETWEEN:

- (1) **EACH OF THE ENTITIES** listed in Schedule 1 (each a **"Borrower"** and together the **"Borrowers"**);
- (2) **BIRCH SHIPHOLDING LIMITED.**, a company incorporated under the laws of England whose registered office is 13-14 Hobart Place, SW1W 0HH, England (**"HoldCo"**);
- (3) **BEECH SHIPHOLDING LIMITED**, a company incorporated under the laws of England whose registered office is 13-14 Hobart Place, SW1W 0HH, England (**"Intermediate HoldCo"**);
- (4) **HAYFIN SERVICES LLP**, a limited liability partnership formed according to the laws of England and Wales, with its registered office at One Eagle Place, London, SW1Y 6AF, England, as security agent and trustee for and on behalf the Lenders (the **"Security Agent"**).

RECITALS

- (A) By a facility agreement (as the same may be amended, restated, supplemented or otherwise modified from time to time, the **"Facility Agreement"**) dated 28 January 2021 between (i) the Borrowers as joint and several borrowers, (ii) Intermediate HoldCo as intermediate holdco and guarantor, (iii) HoldCo as holdco and guarantor, (iv) the banks and financial institutions listed in Part II of Schedule 1 thereto as lenders (collectively, the **"Lenders"**), (v) Hayfin Services LLP as agent and (vi) the Security Agent as security agent, the Lenders agreed to make available to the Borrowers the Facility on the terms and conditions set out therein.
- (B) It is one of the condition precedents to the availability of the Facility that each of the Subordinated Parties enter into this Deed to subordinate and assign all and any indebtedness from time to time owing amongst the Subordinated Parties or any of them, on the terms of this Deed.

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"Appropriation" means the appropriation (or similar process) of the shares in the capital of a member of the Group by the Security Agent (or any attorney, agent or delegate of the Security Agent or any receiver, manager or administrative receiver of the whole or any part of any Charged Property) which is effected (to the extent permitted under the relevant Security Document and applicable law) by enforcement of the Transaction Security.

"Assigned Property" means, in relation to a Subordinated Party, all rights and interests of every kind which that Subordinated Party now or at any later time has to, in or in connection with any Permitted Intercompany Loan (or in relation to any matter arising out of or in connection with any Permitted Intercompany Loan) together with any Obligations owed to that Subordinated Party by another Subordinated Party.

“Borrowing Liabilities” means, in relation to a member of the Group, the liabilities and obligations (not being Guarantee Liabilities) it may have as a principal debtor to a Subordinated Party in respect of Subordinated Debt (whether incurred solely or jointly and including, without limitation, liabilities and obligations as a borrower under a Permitted Intercompany Loan).

“Collateral Instrument” means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and other assurances against financial loss held by or otherwise given as security to the Security Agent and/or any of the other Finance Parties in relation to the Senior Debt and any other documents or instruments held by or otherwise given as security to the Security Agent and/or any of the other Finance Parties which contain or evidence an obligation (with or without Borrowers’ security) to pay, discharge or be responsible directly or indirectly for any indebtedness or liabilities of the Borrowers in relation to the Senior Debt or any other person liable, and includes any documents or instruments creating or evidencing a mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, trust arrangement or security interest of any kind held by or otherwise given as security to the Security Agent and/or any of the other Finance Parties.

“Distressed Disposal” means a disposal of an asset of a member of the Group which is:

- (a) being effected at the request of the Majority Lenders in circumstances where the Transaction Security has become enforceable; or
- (b) being effected by enforcement of the Transaction Security; or
- (c) being effected, after (x) the Agent exercises any of its rights under clause 27.26 (*Acceleration*) of the Facility Agreement or (y) the enforcement of any Transaction Security, by a Debtor to a person or persons which is, or are, not a member, or members, of the Group.

“Expenses” means the aggregate at any relevant time (to the extent that the same have not been received or recovered by the Security Agent) of:

- (a) all losses, liabilities, costs, charges, expenses, claims, duties, fees, damages and outgoings of whatever nature (including, without limitation, taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Security Agent or any other Finance Party or any Receiver in connection with the exercise of the powers referred to in or granted by any of the Security Documents or otherwise payable by the Subordinated Parties in accordance with the Security Documents; and
- (b) interest on all such losses, liabilities, costs, charges, expenses, claims, duties, fees, damages and outgoings from the date on which the same were suffered, incurred or paid by the Security Agent or any other Finance Party or any Receiver until the date of receipt or recovery thereof (whether before or after judgment) at a rate per annum calculated in accordance with clause 8.3 (*Default interest*) of the Facility Agreement (as conclusively certified by the Security Agent).

“Guarantee Liabilities” means, in relation to a member of the Group, the liabilities and obligations with respect to any Subordinated Debt (present or future, actual or contingent and whether incurred solely or jointly) it may have to a Subordinated Party or as a result of its being a guarantor or surety (including, without limitation, liabilities and obligations arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of Subordinated Debt).

“Insolvency Appointee” means any liquidator, administrator, administrative or other receiver, compulsory manager, trustee in bankruptcy or other similar officer appointed in respect of the Subordinated Parties or any of their assets.

“Obligations” means, in relation to a person, all present and future monies, interest, fees, costs, charges, expenses, obligations and liabilities of any kind of that person from time to time, whether they are to pay money or to perform (or not to perform) any other act, express or implied, actual or contingent, joint or several, incurred as a principal or surety or in any other capacity, or originally owing to the person claiming performance or acquired by that person from someone else.

“Other Liabilities” means, in relation to a member of the Group, any trading and other liabilities and obligations (not being Borrowing Liabilities or Guarantee Liabilities) it may have to a Subordinated Party or an Affiliate thereof.

“Party” means a party to this Deed.

“Payment” means, in respect of any Subordinated Debt, a payment in respect of that Subordinated Debt.

“Secured Liabilities” means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Finance Party under or in connection with any Finance Document.

“Senior Debt” means the aggregate of the Loan and interest accrued and accruing thereon, the Expenses and all Obligations from time to time owing by the Borrowers to the Finance Parties, whether actually or contingently, present or future under or pursuant to the Facility Agreement and the Security Documents or any of them.

“Senior Discharge Date” means the date on which the Senior Debt shall have been irrevocably discharged in full and no further sums are owing to the Finance Parties under the Security Documents.

“Subordinated Debt” means, in relation to a Subordinated Party, the aggregate of all Obligations owed at any time and from time to time by that Subordinated Party to any other Subordinated Party including, without limitation, under or in connection with any Permitted Intercompany Debt.

“Subordinated Parties” means the Borrowers, HoldCo and Intermediate HoldCo (each a **“Subordinated Party”**).

1.2 Terms defined in the Facility Agreement

Words and expressions defined in the Facility Agreement shall have the same meanings when used in this Deed unless the context otherwise requires.

1.3 References to Majority Lenders

References in this Deed to an approval, consent or requirement of the Majority Lenders include references to an approval, consent or requirement of the Security Agent acting with the authority of the Majority Lenders.

1.4 Construction

Clause 1.2 (*Construction*) of the Facility Agreement applies, with any necessary modifications, to this Deed or in any notice given under or in connection with this Deed.

1.5 Inconsistency between Facility Agreement provisions and this Deed

This Deed shall be read together with the other Finance Documents, but in case of any conflict between the Facility Agreement and this Deed, the provisions of the Facility Agreement shall prevail.

1.6 Third party rights

- (a) A person who is not a Party (other than a Finance Party) has no right under the Contracts (Rights of Third Parties) Act 1999 (the “**Third Parties Act**”) to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Receiver, Delegate or any person described in clause 1.1 (*Definitions*) of the Facility Agreement may, subject to this Clause 1.6(c) and the Third Parties Act, rely on any Clause of this Deed, which expressly confers rights on it.

2 COVENANT TO PAY

2.1 Covenant to pay

Each Subordinated Party covenants with the Security Agent as security agent for the Finance Parties, to pay, discharge and satisfy the Secured Liabilities when they become due for payment and discharge in accordance with their respective terms and to indemnify the Finance Parties against any Expenses and any other losses, costs, charges, expenses and liabilities including interest thereon arising from any breach or failure to pay, discharge and satisfy the Secured Liabilities in accordance with their respective terms.

2.2 Pro tanto satisfaction

Every payment which a Borrower makes in accordance with the Facility Agreement in respect of which there is a corresponding liability under Clause 2.1 (*Covenant to pay*) will *pro tanto* satisfy that liability.

3 ASSIGNMENT AND SUBORDINATION

3.1 Assignment

- (a) As continuing security for the Secured Liabilities and for the performance of all their obligations under this Deed, each Subordinated Party, with full title guarantee, assigns to the Security Agent absolutely all right, title and interest which that Subordinated Party now or at any later time it has to, in or in connection with, the Assigned Property.
- (b) Each Security created in respect of any part of the Assigned Property by this Clause is a separate and distinct Security and if any such Security is categorised as a floating

charge that shall not result in the Security over any other part of the Assigned Property being so categorised.

3.2 Floating Charge

Each Subordinated Party (other than the Borrowers), with full title guarantee, charges in favour of the Security Agent by way of first floating charge all its undertakings and all its assets and rights whatsoever and whosoever both present and future, except:

- (a) the Assigned Property to the extent that it is the subject of an effective assignment under Clause 3.1 (*Assignment*); and
- (b) any other assets or rights of that Subordinated Party for the time being subject to effective Security securing the Secured Liabilities.

3.3 Conversion by notice

Without prejudice to Clause 3.4 (*Automatic conversion*), the Security Agent may on one or more occasions convert by notice the floating charge created by Clause 3.2 (*Floating Charge*) into a fixed charge as regards all or any of the assets specified in the notice if:

- (a) an Event of Default has occurred and is continuing; or
- (b) the Security Agent considers such action desirable in order to protect or preserve the Security created under this Deed or the priority of such Security.

3.4 Automatic conversion

The floating charge created by Clause 3.2 (*Floating Charge*) will (without prejudice to automatic conversion as a matter of law) automatically and immediately convert into a fixed charge over all of the assets the subject of that floating charge when:

- (a) the Assignor takes any step to create Security in breach of Clause 9.11 (*Negative pledge; disposal of assets*); or
- (b) any person takes any step to effect any expropriation, attachment, sequestration, distress, execution or other process against any of the Assigned Property.

3.5 Qualifying floating charge

The floating charge created by Clause 3.2 (*Floating Charge*) is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986.

3.6 Subordination

The Subordinated Debt shall be fully subordinated to the Senior Debt until the Senior Discharge Date.

3.7 Notice of assignment

By its execution and delivery of this Deed, each Subordinated Party acknowledges and confirms that it has received notice of the assignments contained in Clause 3.1 (*Assignment*).

4 COVENANTS

4.1 Covenants of the Subordinated Parties as creditors

- (a) Subject to Clause 4.3 (Permitted Payment), each Subordinated Party in its capacity as a creditor in respect of any Subordinated Debt undertakes that, until the Senior Discharge Date, it shall not:
- (i) advance or otherwise make available to any Subordinated Party any Subordinated Debt, other than a Permitted Intercompany Loan which is subordinated pursuant to this Deed;
 - (ii) demand or receive payment of, or any distribution in respect or on account of, any of the Subordinated Debt in cash or kind (whether in respect of interest, principal, fees or otherwise) from any other Subordinated Party or any of them or apply any money or assets in discharge of any of the Subordinated Debt;
 - (iii) accelerate, demand, declare payable on demand or enforce by execution or otherwise the whole or any part of any Subordinated Debt;
 - (iv) discharge the whole or any part of any Subordinated Debt by set-off or any right of combination of accounts (excluding for the avoidance of doubt any mandatory set-off under the insolvency laws);
 - (v) receive any Security or any guarantee or other assurance against financial loss for, or in respect of, any of the Subordinated Debt;
 - (vi) take, or permit to be taken, any action or step with a view to the winding up, receivership, dissolution, administration or liquidation of any other Subordinated Party;
 - (vii) claim or prove in any administration or liquidation of any other Subordinated Party;
 - (viii) vary, amend, supplement, waive or release any of the terms and conditions of the Subordinated Debt;
 - (ix) sell or transfer in whole or in part all or any of the Subordinated Debt (or its rights or obligations thereunder), or assign, dispose of, or create or permit to subsist any Security over, any of the Subordinated Debt or its proceeds or any interest in the Subordinated Debt or its proceeds, to or in favour of any person (other than the Security Agent pursuant to this Deed);
 - (x) subordinate any of the Subordinated Debt or its proceeds to any sums owing by any Subordinated Party to any person other than the Finance Parties;
 - (xi) exercise any rights or pursue any remedy in each case in respect of any breach of covenant, misrepresentation or non-observance of the terms or conditions of the Subordinated Debt;

- (xii) commence, or threaten to commence, any legal action against any Subordinated Party arising out of or in relation to the Subordinated Debt; or
- (xiii) take or omit any other action whereby the subordination achieved by this Deed or the rights of the Finance Parties under the Finance Documents may be impaired, terminated or adversely affected,

unless, in each case, any such action is taken with the prior written consent of the Security Agent (which consent the Security Agent shall not unreasonably withhold).

- (b) Each Subordinated Party in its capacity as a creditor in respect of any Subordinated Debt undertakes that it shall:
 - (i) inform the Security Agent promptly upon becoming aware of any breach or event of default under any Subordinated Debt;
 - (ii) (without prejudice to its obligations not to advance further Subordinated Debt other than Permitted Intercompany Debt) promptly on request, notify the Security Agent in writing of the amount of the Subordinated Debt;
 - (iii) promptly on request, deliver to the Security Agent a copy of any document relating to the Subordinated Debt to which it is a party.

4.2 Undertakings of the Subordinated Parties as debtors

- (a) Subject to Clause 4.3 (*Permitted Payment*), each Subordinated Party in its capacity as a debtor in respect of any Subordinated Debt undertakes to the Security Agent that until the Senior Discharge Date it shall not:
 - (i) pay or prepay, or make any distribution in respect of, or purchase or acquire, any of the Subordinated Debt in cash or in kind (whether in respect of interest, principal, fees or otherwise);
 - (ii) apply any set-off against any of the Subordinated Debt (excluding for the avoidance of doubt any mandatory set-off under insolvency laws);
 - (iii) redeem, purchase or create or permit to subsist any Security over, any of its assets for any of the Subordinated Debt;
 - (iv) vary, amend, supplement, waive or release any of the terms and conditions of the Subordinated Debt; or
 - (v) take or omit any other action whereby the subordination achieved by this Deed may be impaired, terminated or adversely affected,

unless, in each case, any such action is taken with the prior written consent of the Security Agent (which consent the Security Agent shall not unreasonably withhold).

- (b) The Subordinated Parties are not released from their liabilities or obligations towards each other in relation to the Subordinated Debt, notwithstanding any term of this Deed postponing or preventing the payment of any of the Subordinated Debt. The Security

Agent shall not, in any circumstances, have or incur any obligation of any kind in connection with the Subordinated Debt or the Assigned Property.

4.3 Permitted Payments

A Subordinated Party, in its capacity as a debtor in respect of any Subordinated Debt, may make a Payment in respect of Subordinated Debt and a Subordinated Party, in its capacity as a creditor in respect of Subordinated Debt, may receive a Payment in respect of Subordinated Debt, in each case if:

- (a) the Payment is a Permitted Loan Repayment; and
- (b) no Default has occurred and is continuing or would result from such Payment.

4.4 Notification

The Subordinated Parties shall notify the Security Agent of any receipt or recovery by it in respect of any repayment or prepayment of any of the Subordinated Debt, promptly upon any such receipt or recovery.

5 RECOVERIES

5.1 Receipt of Moneys and benefit of Set-Off / Counterclaim

If, prior to the Senior Discharge Date:

- (a) any payment, prepayment, repayment, purchase, redemption, defeasance, distribution or security (or the benefit or proceeds of it) is received, whether in cash or in kind, by the Subordinated Parties or any of them upon or with respect to, or which is applied or deemed to be applied in satisfaction or redemption, of any of the Subordinated Debt or any part of it (whether as a result of any legal proceedings against the Subordinated Parties or any of them or as a result of an Insolvency Event or otherwise) and it is not a payment expressly permitted by Clause 4.3 (*Permitted Payments*), the Subordinated Parties shall forthwith pay to the Security Agent an amount equal to the amount received or treated as received by it for application against the Senior Debt and pending such payment any such amount shall be held on trust for the Security Agent;
- (b) the benefit of any right of set-off or counterclaim accrues to or is received by the Subordinated Parties other than to the extent permitted in accordance with this Deed, the Subordinated Parties will forthwith pay to the Security Agent an amount equal to the value of the benefit which the Subordinated Parties shall have obtained from the accrual of such right of set-off or counterclaim for application against the Senior Debt and pending such payment any such amount shall be held on trust for the Security Agent; or
- (c) any amount is received or treated as received by any of the Subordinated Parties:
 - (i) on account of, or in relation to, any of the Obligations after the occurrence of any acceleration or enforcement action under or in respect of the Secured Liabilities; or

- (ii) as a result of any other litigation or proceedings against a Subordinated Party (other than after the occurrence of an Insolvency Event in respect of that entity),

the Subordinated Parties shall forthwith pay to the Security Agent an amount equal to the amount received or treated as received by it, or (in each case), if less, the amount certified by the Security Agent as required to discharge the Senior Debt in full, and pending such payment such amounts shall be held on trust for the Security Agent.

5.2 Receipt on Insolvency

If any Insolvency Event occurs in respect of any Subordinated Party or any of their assets:

- (a) each other Subordinated Party irrevocably authorises the Security Agent, on its behalf, to take any enforcement action against that Subordinated Party, demand, sue, prove and give receipt for any or all of that Subordinated Party's Obligations, collect and receive all distributions on, or on account of, any or all of that Subordinated Party's Obligations and file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that Subordinated Party's Obligations;
- (b) the other Subordinated Parties shall each instruct the relevant Insolvency Appointee to make any payment or distribution of any kind, whether in cash, securities or other property, which is made to or paid to or payable or deliverable upon or with respect to the Subordinated Debt (or any part of any of it) to the Security Agent;
- (c) if and to the extent directed by the Security Agent, the other Subordinated Parties shall each demand, sue and prove for, collect and receive the whole of the Subordinated Debt and every payment or distribution referred to in paragraph (a), and give acquittance for them and file claims and exercise any rights in relation to the Subordinated Debt or the relevant Subordinated Party, or take such other steps or proceedings, as the Security Agent may deem necessary or advisable; and
- (d) each other Subordinated Party shall do all things that the Security Agent requests to give effect to this Clause 5 and, if the Security Agent is not able to take any of the actions contemplated by this Clause 5 or, if the Security Agent requests that such Subordinated Parties take that action, do that action itself in accordance with the instructions of the security Agent or grant a power of attorney to the Security Agent (on such terms that the Security Agent may require) to enable the Security Agent to take that action.

5.3 Authority to Insolvency Appointees

Each Subordinated Party authorises by this Deed any Insolvency Appointee of itself to pay distributions in respect of the Subordinated Debt direct to the Security Agent in accordance with the terms of this Deed.

6 REPRESENTATIONS AND WARRANTIES

6.1 Facility Agreement representations and warranties

Each Subordinated Party represents and warrants to the Security Agent for the benefit of each Finance Party representations and warranties in clause 19 (*Representations and Warranties*) of

the Facility Agreement remain true and not misleading on the date of this Deed with reference to the circumstances now existing.

6.2 Subordinated Debt

- (a) Each Subordinated Party represents and warrants to the Security Agent for the benefit of each Finance Party that there is no Subordinated Debt as of the date of this Deed other than as fully disclosed to the Lenders in writing before the date of this Deed and as otherwise permitted by the Facility Agreement.
- (b) Each Subordinated Party is the sole legal and beneficial creditor of the applicable Subordinated Debt free from encumbrances, options and subordinations in favour of any persons other than the Security Agent, other than the Permitted Security.

The representation and warranty in paragraph (b) above shall be deemed to be repeated by each Subordinated Party on and as of each day from the date of this Deed until the Senior Discharge Date, with reference to the facts and circumstances existing on each such day and shall be deemed to be a Repeating Representation.

7 ENFORCEABILITY AND SECURITY AGENT'S POWERS

7.1 Right to enforce security

On and at any time after the occurrence of an Event of Default which is continuing, the Security created by or pursuant to this Deed shall be immediately enforceable.

7.2 Powers upon enforcement

Upon the Security constituted by this Deed becoming enforceable, the Security Agent may, without notice to the Subordinated Parties or prior authorisation from any court in any jurisdiction, in its absolute discretion:

- (a) secure and perfect its title to all or any part of the Assigned Property (including transferring the Assigned Property into the name of the Security Agent or its nominees);
- (b) enforce all or any part of the Security created by this Deed (at the times, in the manner and on the terms it thinks fit and take possession of and hold, sell, or otherwise dispose of all or any part of the Assigned Property (at the time, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration)));
- (c) to vary the terms of any Subordinated Debt, to enter into any arrangement of any kind connected with any Subordinated Debt, to replace, novate, release or terminate any Subordinated Debt and to release any Subordinated Party from any or all of its obligations or liabilities under any Subordinated Debt;
- (d) whether or not it has appointed a Receiver, exercise all or any of the powers, authorisations and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on security agents and by this Deed on any Receiver or otherwise conferred by law on security agents or Receivers;
- (e) collect, recover or compromise, and give good discharge for any moneys paid or payable to the Subordinated Parties (or any of them) under or in respect of the Assigned

Property, and enforce (in any way whatsoever including, without limitation, by way of instituting proceedings in the Subordinated Parties' name) any rights or claims arising or in respect of the Assigned Property; and

- (f) to discharge, compound, release or compromise claims in respect of the whole or any part of the Assigned Property which have given or may give rise to any charge or lien or other claim on the Assigned Property or which are or may be enforceable by proceedings against the whole or any part of the Assigned Property.

7.3 Power of sale

- (a) The power of sale or other disposal conferred on the Security Agent and on the Receiver by this Deed will operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power will arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on execution of this Deed.
- (b) The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 will not apply to this Deed or to the exercise by the Security Agent of its right to consolidate all or any of the Security created by or pursuant to this Deed with any other security in existence at any time or to its power of sale.

7.4 Security Agent's liability

Neither the Security Agent nor any Receiver will be liable to account as mortgagee in respect of the Assigned Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Assigned Property for which a mortgagee might as such be liable.

7.5 Statutory powers

The powers conferred by this Deed on the Security Agent are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law and in the case of any conflict between the powers contained in any such Act and those conferred by this Deed the terms of this Deed will prevail.

7.6 Suspense account

The Security Agent and any Finance Party may, for the purpose of claiming or proving in a bankruptcy of a Subordinated Party or any other Security Party, place any sum received or recovered under or by virtue of this Deed or any Security connected with it on a separate suspense or other nominal account without applying it in satisfaction of the Borrowers' obligations under the Facility Agreement.

7.7 No prejudice

The security created by or pursuant to this Deed and any rights of the Security Agent created hereunder will not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Subordinated Parties or any other

person by the Security Agent or by any other thing which might otherwise prejudice such security or rights.

7.8 Release of Subordinated Liabilities

(a) If:

- (i) a Distressed Disposal or Appropriation is being effected by the Security Agent (acting on the instructions of the Majority Lenders); and
- (ii) the asset subject to that Distressed Disposal or Appropriation consists of shares in the capital of a Subordinated Party (a “**Debtor**”) or any Holding Company of that Debtor,

the Security Agent is irrevocably authorised (at the cost of the Borrowers) by each Subordinated Party and without any consent, sanction, authority or further confirmation from any Subordinated Party or Debtor to:

- (iii) release that Debtor and any Subsidiary of that Debtor from all or any part of:
 - (A) its Borrowing Liabilities;
 - (B) its Guarantee Liabilities;
 - (C) its Other Liabilities; and/or
- (iv) any Transaction Security granted by that Debtor or any Subsidiary of that Debtor over any of its assets,

on behalf of the Subordinated Parties and the Debtors.

(b) Each Subordinated Party and Debtor will:

- (i) do all things that the Security Agent requests in order to give effect to this Clause 7.8 (which shall include, without limitation, the execution of any documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated herein); and
- (ii) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7.8 or if the Security Agent requests that any Subordinated Party or Debtor take any such action, take that action itself in accordance with the instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with the Finance Documents.

7.9 Exercise of voting rights

- (a) Each Subordinated Party will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any Obligor as instructed by the Security Agent.

- (b) The Security Agent shall give instructions for the purposes of paragraph (a) above in accordance with any instructions given to it by the Majority Lenders.

8 RECEIVERS

8.1 Appointment and removal

At any time after having been requested to do so by the Subordinated Parties or after this Deed becomes enforceable in accordance with Clause 7 (*Enforceability and Security Agent's Powers*), the Security Agent may by deed or otherwise (acting through an authorised officer of the Security Agent), without prior notice to the Subordinated Parties:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Assigned Property;
- (b) appoint one or more Receivers of separate parts of the Assigned Property respectively;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

8.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 8.1 (*Appointment and removal*) will be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;
- (b) for all purposes deemed to be the agent of the Subordinated Parties which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver will at any time act as agent for the Security Agent; and
- (c) entitled to remuneration for his services at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

8.3 Statutory powers of appointment

The powers of appointment of a Receiver will be in addition to all statutory and other powers of appointment of the Security Agent under the Law of Property Act 1925 (as extended by this Deed) or otherwise and such powers will remain exercisable from time to time by the Security Agent in respect of any part of the Secured Assets.

8.4 Powers of Receivers

Every Receiver will (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of a Subordinated Party) have and be entitled to exercise, in relation to the Assigned Property in respect of which he was appointed, and as varied

and extended by the provisions of this Deed (in the name of or on behalf of a Subordinated Party or in his own name and, in each case, at the cost of the Subordinated Parties):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Subordinated Parties themselves could do or omit to do;
- (d) the power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed or any of the Finance Documents (including the power of attorney) on such terms and conditions as it sees fit which delegation will not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself; and
- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Subordinated Parties) which seem to the Receiver to be incidental or conducive to:
 - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
 - (ii) the exercise of any rights, powers and remedies of the Security Agent provided by or pursuant to this Deed or by law (including realisation of all or any part of the Assigned Property); or
 - (iii) bringing to his hands any assets of the Subordinated Party forming part of, or which when got in would be, Assigned Property.

8.5 Consideration

The receipt of the proceeds of sale by the Security Agent or any Receiver will be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Assigned Property or making any acquisition, the Security Agent or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

8.6 Protection of purchasers

No purchaser or other person dealing with the Security Agent or any Receiver will be bound to inquire whether the right of the Security Agent or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Security Agent or such Receiver in such dealings.

8.7 Discretions

Any liberty or power which may be exercised or any determination which may be made under this Deed by the Security Agent or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

9 PROTECTION OF SUBORDINATION AND SECURITY

9.1 Continuing Subordination

The subordination provisions in this Deed constitute a continuing subordination to, and benefit the ultimate balance of, the Senior Debt regardless of any intermediate payment or discharge of the Senior Debt in whole or in part.

9.2 Continuing security

- (a) The Security from time to time constituted by this Deed is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Security Agent.
- (b) No part of the Security from time to time constituted by this Deed will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Liabilities.

9.3 Rights cumulative

All the rights, powers and remedies vested in the Security Agent hereunder shall be in addition to and not a limitation of any and every other right, power or remedy vested in the Security Agent or the other Finance Parties under this Deed and any other Security Documents or any Collateral Instrument or at law and all the rights, powers and remedies so vested in the Security Agent or the other Finance Parties may be exercised from time to time and as often as the Security Agent or the other Finance Parties may deem expedient.

9.4 No enquiry

The Security Agent shall not be obliged to make any enquiry as to the nature or sufficiency of any payment received by it under this Deed or to make any claim or take any action to collect any moneys hereby assigned or to enforce any rights or benefits hereby assigned to the Security Agent or to which the Security Agent may at any time be entitled under this Deed.

9.5 Principal and independent debtor

Each Subordinated Party shall be liable under this Deed as a principal and independent debtor and it shall not have, as regards this Deed, any of the rights or defences of a surety.

9.6 Waiver of Defences

Without limiting the generality of Clause 9.4, the subordination and Security in this Deed and the obligations of each Subordinated Party under this Deed will not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the subordination of any of those obligations in whole or in part, including, without limitation:

- (a) any amendment, extension or supplement to any of the Finance Documents;

- (b) any time, concession or waiver granted to, or composition or arrangement with, any Subordinated Party or any other person (including regarding rescheduling or accepting partial payments under the Finance Documents);
- (c) the taking, variation, compromise, exchange, renewal or release of or refusal or neglect to perfect, take up or enforce any rights against, or security over the assets of any Subordinated Party or any other person or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any security, for whatever reason; and
- (d) any unenforceability, illegality or invalidity of any obligation of any Subordinated Party or security in respect of the Senior Debt or any other document or security.

9.7 Non-Competition

Until the Senior Discharge Date, no Subordinated Party will, by virtue of any payment or performance by it under this Deed:

- (a) be subrogated to any rights, security or moneys held, received or receivable by the Security Agent (or any trustee or agent on behalf of any of them) or be entitled to any right of contribution or indemnity;
- (b) claim, rank, prove or vote as a creditor of the Obligors or any other person or their respective estates in competition with the Security Agent (or any trustee or agent on behalf of it); or
- (c) receive, claim or have the benefit of any payment, distribution or security from or on account of any Obligor or any other person.

9.8 Protection of security

The Security Agent shall, without prejudice to its other rights, powers and remedies under any of the Finance Documents, be entitled (but not bound) at any time, and as often as may be necessary, to take any such action as it may in its discretion think fit for the purpose of protecting or maintaining the security created by this Deed and the other Finance Documents, and all Expenses attributable thereto shall be payable by the Subordinated Parties on demand. Each Subordinated Party covenants and undertakes with the Security Agent to do or permit to be done each and every act or thing which the Security Agent may from time to time require to be done for the purpose of enforcing the Security Agent's rights under this Deed and to allow its name to be used as and when required by the Security Agent for that purpose.

9.9 Release, settlement or discharge conditional

- (a) Any release, settlement or discharge under this Deed between the Security Agent or any other Finance Party and the Subordinated Parties will be conditional upon no security or payment to the Security Agent or any other Finance Party by the Subordinated Parties or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.
- (b) If any such security or payment is avoided, set aside or ordered to be refunded, the Security Agent shall be entitled to enforce this Deed against the Subordinated Parties as

if that release, discharge or settlement had not occurred and that security or payment had not been made.

9.10 No obligations imposed on Security Agent

The Subordinated Parties shall remain liable to perform all the obligations assumed by them in relation to the Assigned Property and none of the Security Agent, its nominee(s), or any Receiver or Delegate will be liable by reason of (a) taking any action permitted by this Deed or (b) the taking possession or realisation of all or any part of the Assigned Property or (c) otherwise in connection with the Assigned Property (apart from any obligation arising at law as mortgagee in possession), unless such liability arises as a result of gross negligence or wilful misconduct of the Security Agent, its nominee(s), or any such Receiver or Delegate.

9.11 Negative pledge; disposal of assets

No Subordinated Party shall enter into a single transaction or a series of transactions (whether related or not and whether voluntarily or involuntarily) to sell, assign, transfer, sub-participate or otherwise dispose of the whole or any part of the Subordinated Debt, and will not create or permit to arise or subsist any Security over the whole or any part of the Assigned Property in favour of any person other than the Security Agent, in each case other than as permitted by the Facility Agreement.

9.12 Immediate recourse

Each Subordinated Party waives any rights that it may have to require the Security Agent first to commence any other proceedings, or enforce any of the other Finance Documents, or claim payment from the Borrowers or any other person before enforcing any rights of the Security Agent against a Subordinated Party under this Deed.

9.13 Release of security

At the end of the Facility Period, the Security Agent shall, at the request and cost of a Subordinated Party, release the security granted by that Subordinated Party pursuant to this Deed and return to that Subordinated Party (or as the Subordinated Party may direct) the items delivered to the Security Agent pursuant to this Deed, if any.

10 INCORPORATION OF FACILITY AGREEMENT PROVISIONS

10.1 Incorporation of specific provisions

The following clauses of the Facility Agreement apply to this Deed as if they were expressly incorporated in this Deed with any necessary modifications:

clause 12.2 (*Tax gross-up*);

clause 22.25 (*Further Assurance*);

clause 34.6 (*No set-off by Obligors*);

clause 37 (*Notices*);

clause 39 (*Partial invalidity*);

clause 40 (*Remedies and waivers*); and

clause 43 (*Counterparts*).

10.2 Incorporation of general provisions

Clause 10.1 (*Incorporation of specific provisions*) is without prejudice to the application to this Deed of any provision of the Facility Agreement which, by its terms, applies or relates to the Finance Documents generally.

11 APPLICATION OF MONEYS

All moneys received by the Security Agent under or pursuant to this Deed and the Assigned Property shall be held by it upon trust in the first place to pay or make good the Expenses and the balance shall be applied in the manner specified in clause 31 (*Application of Proceeds*) of the Facility Agreement. Until the Senior Discharge Date, the Security Agent may at its discretion hold in suspense any such moneys or distributions received.

12 POWER OF ATTORNEY

12.1 Appointment

For the purpose of exercising, securing, enforcing or realising the Security Agent's powers, rights and interest to, in or in relation to the Assigned Property and the due and punctual performance and discharge of its obligations and liabilities to the Security Agent under this Deed and every other Finance Document, each Subordinated Party irrevocably and by way of security appoints the Security Agent and/or any Receiver its attorney, on behalf of that Subordinated Party and in its name or otherwise, to execute or sign any document and do any act or thing which that Subordinated Party is obliged to do under this Deed or any other Finance Document, provided that the power of attorney constituted by this paragraph shall be exercisable only on the occurrence of an Event of Default which is continuing.

12.2 Ratification of actions of attorney

For the avoidance of doubt and without limiting the generality of Clause 12.1 (*Appointment*), each Subordinated Party confirms that Clause 12.1 (*Appointment*) authorises the Security Agent to execute on its behalf a document ratifying any transaction or action which the Security Agent has purported to enter into or to take and which the Security Agent considers was or might have been outside its powers or otherwise invalid.

12.3 Delegation

The Security Agent may delegate to any person all or any of the powers (including the discretions) conferred on the Security Agent by Clauses 12.1 (*Appointment*) and/or 12.2 (*Ratification of actions of attorney*), and may do so on terms authorising successive sub-delegations. No such delegation will preclude the subsequent exercise of such powers by the Security Agent itself or preclude the Security Agent from making subsequent delegations and any such delegation may be revoked by the Security Agent at any time.

12.4 Liability

Neither the Security Agent nor any Receiver will be in any way liable or responsible to any Subordinated Party for any loss or liability arising from any act, default, omission, or misconduct on the part of any Delegate or sub-Delegate unless as a result of gross negligence or wilful misconduct of the Security Agent or the Receiver.

12.5 Duration

The power of attorney constituted by Clause 12.1 (*Appointment*) shall be granted for the duration of the Facility Period.

13 INDEMNITIES

13.1 Indemnity against non-compliance, etc.

Subject to Clause 2.2 (*Pro tanto satisfaction*), as a joint and several obligation, the Subordinated Parties shall pay to the Security Agent, on the Security Agent's demand, the amount of all Expenses and any other expenses incurred by any Finance Party due to or in connection with:

- (a) any failure by any Subordinated Party duly to perform or discharge its obligations and liabilities under Clause 2.1 (*Covenant to Pay*);
- (b) any failure by any Subordinated Party duly to perform or discharge its other obligations and liabilities in accordance with the provisions of this Deed; and
- (c) any action by any Subordinated Party which vitiates, reduces the value of, or is otherwise prejudicial to, the security created or intended to be created by this Deed.

13.2 Costs of variations, amendments, enforcement etc.

As a joint and several obligation, each Subordinated Party shall pay to the Security Agent, on the Security Agent's demand, the amount of all Expenses and any other expenses incurred by any Finance Party or a Receiver in connection with:

- (a) any amendment or supplement to this Deed, or any proposal for such an amendment to be made;
- (b) any consent or waiver by the Security Agent or any other Finance Party concerned under or in connection with this Deed, or any request for such a consent or waiver;
- (c) any step taken by the Security Agent or any other Finance Party concerned with a view to the protection, exercise or enforcement of any right or Security created by this Deed or for any similar purpose; and
- (d) the release of any part of the Assigned Property from the Security created by this Deed.

There will be recoverable under paragraphs (a), (b) and (d) all Expenses reasonably incurred (including but not limited to legal fees and expenses reasonably incurred) and under paragraph (c) the full amount of all Expenses (including but not limited to the full amount of all legal fees and expenses, whether or not such as would be allowed under rules of court or any taxation or other procedure carried out under such rules).

13.3 Currency indemnity

In addition, clause 14.1 (*Currency indemnity*) of the Facility Agreement will apply, with any necessary adaptations, in relation to this Deed.

14 SUPPLEMENTAL

14.1 Cumulative security

The security created by this Deed will be cumulative, in addition to, and independent of every other Security which the Security Agent or any Finance Party may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Security Agent (whether in its capacity as trustee or otherwise) or any of the other Finance Parties over the whole or any part of the Assigned Property will merge into the security created by this Deed.

14.2 Invalidity of Facility Agreement

In the event of:

- (a) the Facility Agreement now being or later becoming void, illegal, unenforceable or otherwise invalid for any reason whatsoever; or
- (b) a bankruptcy of any Subordinated Party, the introduction of any law or any other matter resulting in any Subordinated Party being discharged from liability under the Facility Agreement, or the Facility Agreement ceasing to operate (for example, by interest ceasing to accrue),

this Deed will cover any amount which would have been or become payable under or in connection with the Facility Agreement if the Facility Agreement had been and remained entirely valid and enforceable and any Subordinated Parties (or any of them) had remained fully liable under it and references in this Deed to amounts payable by the Subordinated Parties (or any of them) under or in connection with the Facility Agreement will include references to any amount which would have so been or become payable as aforesaid.

14.3 Invalidity of Finance Documents

Clause 14.2 (*Invalidity of Facility Agreement*) also applies to this Deed and each of the other Finance Documents to which any Subordinated Party is a party.

14.4 Release, settlement or discharge conditional

- (a) Any release, settlement or discharge under this Deed between the Security Agent or any other Finance Party and the Subordinated Parties (or any of them) will be conditional upon no security or payment to the Security Agent or any other Finance Party by any Subordinated Party or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.
- (b) If any such security or payment is avoided, set aside or ordered to be refunded, the Security Agent shall be entitled to enforce this Deed against the Subordinated Parties as

if that release, discharge or settlement had not occurred and that security or payment had not been made.

15 TRANSFERS

15.1 Transfer by the Subordinated Parties

No Subordinated Party may assign or transfer any of its rights and obligations under this Deed.

15.2 Transfer by Security Agent

The Security Agent may assign or transfer its rights and obligations under and in connection with this Deed to the same extent as it may do so under the Facility Agreement.

15.3 Benefit of this Deed

This Deed will bind each Subordinated Party and their successors and will enure to the benefit of the Finance Parties and their respective successors, transferees and assigns, as if each of the other Finance Parties had also been a Party to this Deed. Each Subordinated Party acknowledges the transfer provisions in clause 28 (*Changes to the Lenders*) of the Facility Agreement and agrees that any person in favour of whom a transfer is made in accordance with those provisions will be entitled to the benefit of this Deed.

16 GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it, are governed by, and construed in accordance with, English law.

17 ENFORCEMENT

17.1 Jurisdiction of the English courts

(a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a “**Dispute**”).

(b) Each Subordinated Party agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.

17.2 This Clause 17 is for the benefit of the Security Agent only. As a result, the Security Agent will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

EXECUTED as a deed and delivered on the date stated at the beginning of this Deed.

[Execution Page Follows]

SCHEDULE 1

BORROWERS

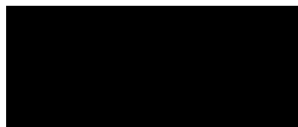
Name of Borrower	Jurisdiction of Incorporation	Registered Address and, if applicable, Registration No.	Address for Communication
Vermont Trader Maritime Limited	England	13-14 Hobart Place, London SW1W 0HH, United Kingdom Registration Number: 13120702	c/o Lomar Shipping Limited 12 Hobart Place London SW1W 0HH Fax: +44 (0)20 7245 0020 Email: legal@lomarshipping.com
Maine Trader Maritime Limited	England	13-14 Hobart Place, London SW1W 0HH, United Kingdom Registration Number: 13120229	

EXECUTION PAGES

SECURITY AGENT

EXECUTED and DELIVERED as a deed
By **HAYFIN SERVICES LLP**
acting by Stephen Bourne

)
)
)
)



In the presence of:

Signature of witness



Name: Dionne Longmore
One Eagle Place
Address: London
SW1Y 6AF

SUBORDINATED PARTIES

BORROWERS

EXECUTED and DELIVERED as a deed
By **VERMONT TRADER MARITIME**
LIMITED
acting by

)
)
)
)

In the presence of:

Signature of witness

Name:

Address:

EXECUTION PAGES

SECURITY AGENT

EXECUTED and DELIVERED as a deed)
By **HAYFIN SERVICES LLP**)
acting by)
)

In the presence of:

Signature of witness

Name:

Address:

SUBORDINATED PARTIES

BORROWERS

EXECUTED and DELIVERED as a deed)
By **VERMONT TRADER MARITIME**)
LIMITED)
acting by)

In the presence of:

Signature of witness

Name: *SOFIA APOSTOLOPOV*

Address:

EXECUTED and DELIVERED as a deed
By **MAINE TRADER MARITIME LIMITED**
acting by

In the presence of:

Signature of witness

Name: **SOPIA APOSTOLOPOULOU**

Address:

INTERMEDIATE HOLDCO

EXECUTED and DELIVERED as a deed
By **BEECH SHIPHOLDING LIMITED**
acting by

In the presence of:

Signature of witness

Name: **Sofia Apostolopoulou**

Address:

HOLDCO

EXECUTED and DELIVERED as a deed
By **BIRCH SHIPHOLDING LIMITED**
acting by

In the presence of:

Signature of witness

Name: **Sofia Apostolopoulou**

Address: