



**Registration of a Charge**

Company Name: **SUMMER WIND SHIPPING LIMITED**

Company Number: **13261162**



Received for filing in Electronic Format on the: **02/06/2021**

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**Details of Charge**

Date of creation: **31/05/2021**

Charge code: **1326 1162 0001**

Persons entitled: **CIT BANK, N.A. AS SECURITY AGENT**

Brief description: **SHIP SUBJECT TO A CHARGE: M.V. "GUANGZHOU TRADER"  
REGISTERED UNDER MALTA FLAG WITH IMO NUMBER 9761449.**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

Certification statement: **I CERTIFY 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: **WATSON FARLEY & WILLIAMS LLP**



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

Company number: 13261162

Charge code: 1326 1162 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st May 2021 and created by SUMMER WIND SHIPPING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd June 2021 .

Given at Companies House, Cardiff on 3rd June 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 31 May 2021

**SUMMER WIND SHIPPING LIMITED**  
as Owner

and

**CIT BANK, N.A.**  
as Security Agent

**DEED OF COVENANT**

relating to  
m.v. "GUANGZHOU TRADER"

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THIS DEED is made on 31 May 2021

## PARTIES

- (1) **SUMMER WIND SHIPPING LIMITED**, a company incorporated in England and Wales with registered number 13261162 whose registered office is at 13-14 Hobart Place, London SW1W 0HH, England (the "**Owner**")
- (2) **CIT BANK, N.A.**, acting through its office at 11 West 42<sup>nd</sup> Street, New York, New York 10036, USA (the "**Security Agent**")

## BACKGROUND

- (A) By the Facility Agreement the Lenders agreed to make available to the Owner a facility of up to US\$14,500,000.
- (B) By a Hedging Agreement, the Owner may enter into interest swaps with the Hedge Counterparty in order to hedge their exposure under the Facility Agreement to interest rate fluctuations.
- (C) By the Facility Agreement it was agreed that the Security Agent would hold the Security Property on trust for the Secured Parties.
- (D) It is a condition precedent to the availability of the Facility under the Facility Agreement that the Owner executes, delivers and registers the Mortgage in favour of the Security Agent and enters into this Deed as security for the Secured Liabilities.
- (E) The Owner has executed the Mortgage in favour of the Security Agent.
- (F) This Deed supplements the Facility Agreement and the Mortgage and is the Deed of Covenant referred to in the Facility Agreement.

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Deed:

"**Facility Agreement**" means the facility agreement dated 26 May 2021 and made between, amongst others, (i) the Owner as borrower, (ii) CIT Bank, N.A. as Mandated Lead Arranger, (iii) the financial institutions listed in Part B of Schedule 1 therein as Original Lenders, (iv) the financial institutions listed in Part B of Schedule 1 therein as Hedge Counterparties, (v) CIT Bank, N.A. as Facility Agent and (vi) CIT Bank, N.A. as Security Agent.

"**Hedging Agreement**" means any master agreement, confirmation, transaction, schedule or other agreement in agreed form entered into or to be entered into by the Owner for the purpose of hedging interest payable under the Facility Agreement.

"**Mortgage**" means the first priority Maltese ship mortgage on the Ship dated 31 May 2021.

"**Party**" means a party to this Deed.

**"Receiver"** means a receiver and/or manager (or joint receivers and/or managers) appointed under Clause 6.3 (*Right to appoint Receiver*).

**"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 the Owner to any Secured Party or any of them under or in connection with each Finance Document.

**"Ship"** means the 1,700 TEU container vessel "GUANGZHOU TRADER" with IMO Number 9761449 documented in the name of the Owner under the laws and flag of Malta at the port of Valletta under Official Number 9761449 and includes any share or interest in that vessel and its engines, machinery, boats, tackle, outfit, spare gear, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether owned as at the date of this Deed or later acquired.

## **1.2 Defined expressions**

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

## **1.3 Application of construction and interpretation provisions of Facility Agreement**

Clause 1.2 (*Construction*) of the Facility Agreement applies to this Deed as if it were expressly incorporated in it with any necessary modifications.

## **1.4 Construction of Mortgage terms**

In the Mortgage:

- (a) references to **"interest"** shall be construed as references to interest covenanted to be paid in accordance with Clause 2.1 (*Covenant to pay*);
- (b) references to **"principal"** shall be construed as references to all moneys (other than interest) for the time being comprised in the Secured Liabilities; and
- (c) the expressions **"the sums for the time being owing on this security"**, **"all sums for the time being owing to the Mortgagee"** and other like expressions means the whole of the Secured Liabilities.

## **1.5 Inconsistency between Facility Agreement provisions and this Deed**

This Deed shall be read together with the Facility Agreement, but in case of any conflict between the Facility Agreement and this Deed, unless expressly provided to the contrary in this Deed, the provisions of the Facility Agreement shall prevail.

## **1.6 Continuing effect after discharge of Mortgage**

Notwithstanding that this Deed is supplemental to the Facility Agreement and the Mortgage, it shall continue in full force and effect after any discharge of the Mortgage.

## **1.7 Inconsistency between specific mortgages and this Deed**

Any specific Transaction Security which the Owner may effect in respect of any Charter or guarantee relative thereto pursuant to a Finance Document other than this Deed to secure the Secured Liabilities shall be in addition to this Deed; but in the event of any conflict between such specific Transaction Security and this Deed, the specific Transaction Security shall prevail.

## **1.8 Third party rights**

- (a) Subject to paragraph (c) below or unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce 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 or Delegate or any other person described in Clause 8 (*Protection of Third Parties*) may, subject to this Clause 1.8 (*Third party rights*) and the Third Parties Act, rely on any Clause of this Deed which expressly confers rights on it.

## **2 COVENANT TO PAY AND PERFORM**

### **2.1 Covenant to pay**

The Owner shall duly and punctually pay and discharge the Secured Liabilities in the manner provided for in the Finance Documents.

### **2.2 Covenant to perform**

The Owner covenants with the Security Agent to observe and perform all its obligations to the Security Agent and the other Secured Parties or any of them under the Finance Documents, other than those referred to in Clause 2.1 (*Covenant to pay*).

## **3 SECURITY**

### **3.1 General**

The Security created by this Deed is a continuing security for the due and punctual payment and discharge by the Owner of the Secured Liabilities under Clause 2.1 (*Covenant to pay*) and the observation and performance by the Owner of all its obligations under Clause 2.2 (*Covenant to perform*).

### **3.2 Mortgage**

The Owner mortgages the Ship to the Security Agent.

### **3.3 Continuing and additional security**

- (a) The Mortgage and this Deed shall remain in force until the end of the Security Period as continuing securities and, in particular:
  - (i) the Security created by Clause 3 (*Security*) will extend to the ultimate balance of all sums payable by the Owner under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part;

- (ii) the Security created by Clause 3 (*Security*), and the rights of the Security Agent under this Deed, are only capable of being extinguished, limited or otherwise adversely affected by an express and specific term in a document signed by or on behalf of the Security Agent;
  - (iii) no failure or delay by or on behalf of the Security Agent to enforce or exercise a Security created by Clause 3 (*Security*) or a right of the Security Agent under this Deed, and no act, course of conduct, acquiescence or failure to act (or to prevent the Owner from taking certain action) which is inconsistent with such a Security or such a right or with such a Security being a fixed security shall preclude or estop the Security Agent (either permanently or temporarily) from enforcing or exercising it or result in a Security expressed to be a fixed security taking effect as a floating security.
- (b) This Deed is in addition to and is not in any way prejudiced by, and shall not prejudice any guarantee or other Security or any other right of recourse now or subsequently held by any Secured Party or any right of set-off or netting or rights to combine accounts in connection with the Finance Documents.

## **4 UNDERTAKINGS**

### **4.1 General**

The undertakings in this Clause 4 (*Undertakings*) remain in force throughout the Security Period except as the Security Agent may otherwise permit.

### **4.2 Insurance and Ship undertakings**

The Owner shall comply with the provisions of Clause 21 (*Insurance Undertakings*) and Clause 22 (*Ship Undertakings*) of the Facility Agreement. Additionally, the Owner shall appoint a Resident Agent in terms of the Merchant Shipping (Ships Eligible for Registration) Regulations 2003 of Malta and shall ensure that the Resident Agent is validly appointed throughout the Security Period.

### **4.3 Negative pledge**

- (a) The Owner shall not create or permit to subsist any Security over the Ship.
- (b) Paragraph (a) above does not apply to any Permitted Security.
- (c) This Clause 4.3 (*Negative pledge*) is in addition to, and shall not be limited by, any provision of the Facility Agreement.

### **4.4 Disposals**

The Owner shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of the whole or any part of the Ship other than a Permitted Charter except as permitted in the Facility Agreement.



#### **4.5 Protection of Secured Party interests**

The Owner shall not enter into any transaction, or do anything, which is contrary to, or which may adversely affect, the rights of the Security Agent under this Deed or any Secured Party's interest in those rights.

### **5 PRESERVATION AND RELEASE OF SECURITY**

#### **5.1 Protection of Security**

The Security Agent may, but shall not be obliged to, take any action which it may think fit for the purpose of protecting or maintaining the Security created or intended to be created by the Mortgage and this Deed or for any similar or related purpose.

#### **5.2 No obligations imposed on Security Agent**

Without prejudice to paragraph 10 of Schedule 1 of the Merchant Shipping Act 1995, the Owner shall remain liable to perform all obligations connected with the Ship and the Security Agent shall not, in any circumstances, have or incur any obligation of any kind in connection with the Ship.

#### **5.3 Security Agent's right to insure, repair etc.**

Without limiting the generality of Clause 5.1 (*Protection of Security*), if the Owner does not comply with Clause 4 (*Undertakings*), the Security Agent may:

- (a) effect, replace and renew any Insurances;
- (b) arrange for the carrying out of such surveys and/or repairs of the Ship as it deems expedient or necessary; and
- (c) discharge any liabilities charged on the Ship, or otherwise relating to or affecting it, and/or take any measures which the Security Agent may think expedient or necessary for the purpose of preventing its arrest and securing its release.

#### **5.4 New accounts**

Upon:

- (a) a Secured Party receiving notice (either actual or otherwise) of any subsequent Security affecting the Ship or the proceeds of sale of the Ship; or
- (b) the presentation of a petition or the passing of a resolution in relation to the winding up of the Owner,

any Secured Party may open a new account in the name of the Owner with that Secured Party (whether or not it permits any existing account to continue) and if that Secured Party does not open such new account, it shall nevertheless be treated as if it had done so when the relevant event occurred and no moneys paid into any account, whether new or continuing, after that event shall discharge or reduce the Secured Liabilities or the amount recoverable by the Secured Party under any Finance Document to which the Owner is a party.

## **5.5 Release of Security**

At the end of the Security Period, the Security Agent shall, at the request and cost of the Owner, discharge the Mortgage and the Security over the Ship created by this Deed.

## **6 ENFORCEABILITY AND SECURITY AGENT'S POWERS**

### **6.1 Right to enforce Security**

If an Event of Default occurs and is continuing, irrespective of whether a notice has been served under Clause 25.22 (*Acceleration*) of the Facility Agreement and, save as may be required under Maltese law in respect of the Mortgage, without the necessity for the Security Agent to serve any notice or take any other action or for any court order in any jurisdiction to the effect that an Event of Default has occurred and is continuing or that the Security constituted by the Mortgage and this Deed has become enforceable, the Security constituted by the Mortgage and this Deed shall immediately become enforceable for all purposes.

### **6.2 Right to take possession, exercise rights etc.**

If the Security constituted by this Deed has become enforceable, the Security Agent shall be entitled then or at any later time or times:

- (a) to exercise the powers possessed by it as mortgagee of the Ship conferred by English law (being the governing law of this Deed) and by the law of any country or territory in which the Ship is physically present or deemed to be sited, the courts of which have or claim any jurisdiction in respect of the Owner or the Ship;
- (b) to take possession of the Ship whether actually or constructively and/or otherwise to take control of the Ship wherever the Ship may be and cause the Owner or any other person in possession of the Ship forthwith upon demand to surrender the Ship to the Security Agent without legal process and without the Security Agent or any other Secured Party being liable for any losses caused by such actions or to account to the Owner in connection with the same;
- (c) to sell the Ship or any share in it with or without prior notice to the Owner, and with or without the benefit of any Charter, by public auction or private contract at any time, at any place and upon any terms (including, without limitation, on terms that all or any part or parts of the purchase price be satisfied by shares, loan stock or other securities and/or be left outstanding as a debt, whether secured or unsecured and whether carrying interest or not) which the Security Agent may think fit, with power for the Security Agent to purchase the Ship at any such public auction and to set off the purchase price against all or any part of the Secured Liabilities;
- (d) to manage, insure, maintain and repair the Ship and to charter, employ, lay up or in any other manner whatsoever deal with the Ship, upon any terms and for any period which the Security Agent may think fit, in all respects as if the Security Agent were the owner of the Ship and without the Security Agent or any other Secured Party being responsible for any loss incurred as a result of or in connection with any such action;
- (e) to collect, recover and give good discharge for any moneys or claims arising in relation to the Ship and to permit any brokers through whom collection or recovery is effected to charge the usual brokerage for the same;

- (f) to enter into all kinds of transactions for the purpose of hedging risks which have arisen, or which the Security Agent considers may arise, in respect of the Ship and of movements in exchange rates, interest rates or other risks of any kind;
- (g) to take over or commence or defend (if necessary using the name of the Owner) any claims or proceedings relating to, or affecting, the Ship which the Security Agent may think fit and to abandon, release or settle in any way any such claims or proceedings; and
- (h) generally, to enter into any transaction or arrangement of any kind and to do anything in relation to the Ship which the Security Agent may think fit.

### **6.3 Right to appoint Receiver**

If the Security constituted by this Deed has become enforceable, the Security Agent may then or at any later time or times appoint a receiver and/or manager (or joint receivers and/or managers) of the Ship, and the provisions of Clause 7 (*Receiver*) shall apply.

### **6.4 Effect of moratorium**

For as long as such action is prohibited under the Insolvency Act 1986 or otherwise at law, the Security Agent shall not be entitled to exercise its rights under Clause 6.3 (*Right to appoint Receiver*) solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 except with the leave of the court.

### **6.5 Disapplication of certain Law of Property Act 1925 provisions**

The Owner:

- (a) waives the entitlement conferred by section 93 of the Law of Property Act 1925;
- (b) agrees that section 103 of that Act shall not apply to the Security created by the Mortgage and this Deed; and
- (c) agrees that the power of sale and other powers conferred by section 101 of that Act (as varied or supplemented by this Deed) shall arise on execution of this Deed but shall not be exercisable until the Security constituted by this Deed has become enforceable.

### **6.6 No liability of Security Agent or Receiver**

- (a) None of the Security Agent, any Receiver or any Delegate shall be obliged to:
  - (i) check the nature or sufficiency of any payment received by it or him under the Mortgage or this Deed; or
  - (ii) preserve, exercise or enforce any right forming part of, or relating to, the Ship.
- (b) In addition to, and without limiting, any exclusion or limitation of liability of any Secured Party under any Finance Document, none of the Security Agent, any Receiver or any Delegate shall have any liability including, without limitation, for negligence or any other category of liability whatsoever:

- (i) for any loss caused by an exercise of, or failure to exercise, rights under or enforcement of, or failure to enforce any Security created by the Mortgage or this Deed;
- (ii) as mortgagee in possession or otherwise, to account for any income or principal amount which might have been produced or realised from any asset forming part of or subject to any Security created by the Mortgage or this Deed; or
- (iii) as mortgagee in possession or otherwise, for any reduction in the value of any asset forming part of or subject to any Security created by the Mortgage or this Deed.

#### **6.7 No requirement to commence proceedings**

Neither the Security Agent nor any other Secured Party will need to commence any proceedings under, or enforce any Security created by, the Facility Agreement or any other Finance Document before commencing proceedings under, or enforcing any Security created by, this Deed.

#### **6.8 Prior Security**

- (a) At any time after the Security created by this Deed has become enforceable, the Security Agent may:
  - (i) redeem any prior Security over all or any part of the Ship;
  - (ii) procure the transfer of that Security to itself; and/or
  - (iii) settle the accounts of any prior mortgagee, chargee or encumbrancer and any accounts so settled will be, in the absence of manifest error, conclusive and binding on the Owner.
- (b) The Owner shall pay to the Security Agent immediately upon demand the costs and expenses incurred by the Security Agent in connection with any such redemption, settlement and/or transfer including the payment of any principal or interest.

### **7 RECEIVER**

#### **7.1 Appointment of a Receiver**

An appointment of a Receiver shall be by deed or, at the Security Agent's option, by a document signed by any of its officers.

#### **7.2 Relationship with the Security Agent**

- (a) The Security Agent may exercise any of the powers conferred by the Mortgage or this Deed while a Receiver is in office and is acting.
- (b) To the fullest extent permitted by law, a Receiver shall be the Owner's agent, and the Owner shall be responsible, to the exclusion of any liability on the part of the Security Agent and the other Secured Parties, for his remuneration and for his contracts, acts and defaults.

#### **7.3 Powers of a Receiver**

- (a) A Receiver shall have all the powers conferred by Clause 6.2 (*Right to take possession, exercise rights etc.*) as if references to the Security Agent in Clause 6.2 (*Right to take possession, exercise*

*rights etc.*) were references to the Receiver, and all the powers conferred on a Receiver by the Law of Property Act 1925.

- (b) In the case of joint Receivers, any of the powers (including the discretions) conferred by this Deed or by the general law (including the Insolvency Act 1986) may be exercised by any one or more of them, unless their appointment specifically states the contrary.

#### **7.4 Receivers' powers in relation to the Ship**

Without prejudice to Clause 6.3 (*Right to appoint Receiver*) and the other provisions of this Clause 7 (*Receiver*), it is specifically declared that any Receiver shall have power to:

- (a) commence, defend and settle any proceedings or take any other steps with a view to, or relating to, the arrest of the Ship or in connection with any other matter relating to the Ship;
- (b) operate the Ship (and to issue bills of lading and other documents in the name of the Owner);
- (c) enter into charterparties, insurances and other contracts in respect of the Ship;
- (d) sell the Ship; and
- (e) do all things which appear to the Receiver to be conducive to or connected with any of the matters relevant to the above.

#### **7.5 Receiver as Owner's attorney**

The Owner irrevocably and by way of security appoints every Receiver its attorney on its behalf and in its name or otherwise to execute or sign any document and do any act or thing which that Receiver considers necessary or desirable with a view to or in connection with any exercise or proposed exercise of any of his powers.

#### **7.6 Delegation**

A Receiver may delegate to any person or persons any of the powers (including the discretions) conferred on him by, or pursuant to, this Deed and may do so on terms authorising successive sub-delegations.

#### **7.7 Removal and replacement**

- (a) The Security Agent may remove a Receiver, with or without appointing another Receiver; such a removal may be effected by a document signed by any of the Security Agent's officers.
- (b) The Security Agent may appoint a Receiver to replace a Receiver who has resigned or for any other reason ceased to hold office.

#### **7.8 Remuneration and expenses**

- (a) The remuneration of a Receiver shall be fixed by the Security Agent and the maximum rate specified in Section 109(6) of the Law of Property Act 1925 will not apply.
- (b) A Receiver shall be entitled to retain out of any money received by him such amounts in respect of his expenses (or to cover estimated future expenses) as he may from time to time agree with the Security Agent.

## **8 PROTECTION OF THIRD PARTIES**

No person dealing with the Security Agent or any other Secured Party shall be concerned to enquire:

- (a) whether the rights conferred by or pursuant to any Finance Document are exercisable or have been properly exercised;
- (b) whether any Secured Liabilities remain owing;
- (c) whether any laws, directions, restrictions, consents and/or, regulations affecting the rights of the Security Agent or any Secured Party have been obtained or complied with; or
- (d) as to the application of any monies received by the Security Agent.

## **9 APPLICATION OF MONEYS**

- (a) All sums received by the Security Agent or by a Receiver under this Deed or in connection with the realisation or enforcement of any Security created by this Deed over all or any part of the Ship shall be held by the Security Agent or the Receiver upon trust:
- (b) **first**, to pay or discharge any expenses or liabilities (including any interest) which have been paid or incurred by the Security Agent or any Receiver or Delegate in or in connection with the exercise of their respective powers under the Finance Documents; and
- (c) **secondly**, to pay the balance over to the Facility Agent for application in accordance with Clause 32.5 (*Application of receipts; partial payments*) of the Facility Agreement.

## **10 FURTHER ASSURANCE**

Clause 20.22 (*Further assurance*) of the Facility Agreement applies to this Deed as if it were expressly incorporated in it with any necessary modifications.

## **11 POWER OF ATTORNEY**

### **11.1 Appointment**

The Owner, by way of security for the performance of its obligations under the Mortgage and this Deed, irrevocably appoints (with full power of substitution) the Security Agent as its attorney-in-fact:

- (a) to do all acts and execute or sign all documents which the Owner itself can do and execute in relation to the Ship including, without limitation, all acts and documents necessary to realise and dispose of the Ship or any interest in the Ship by such means and on such terms as the Security Agent may determine; and
- (b) to do all acts and things and execute or sign all documents which the Owner is obliged to do, execute or sign under the Mortgage and this Deed and which it has failed so to do, execute or sign immediately upon the Security Agent's first written demand,

provided that the power of attorney constituted by this Clause 11.1 (*Appointment*) shall be exercisable only on the occurrence of an Event of Default and while it is continuing.

## **11.2 General power of attorney**

The power of attorney constituted by Clause 11.1 (*Appointment*) shall be a general power of attorney for the purpose of section 10 of the Powers of Attorney Act 1971.

## **11.3 Ratification of actions of attorney**

The Owner ratifies and confirms, and agrees to ratify and confirm, any act, deed or document which the Security Agent (or any Delegate or substitute) does or executes pursuant to its terms.

## **11.4 Conclusiveness of exercise**

The exercise of the power of attorney constituted by Clause 11.1 (*Appointment*) shall not put any person dealing with the Security Agent (or any Delegate or substitute) on enquiry whether, by its terms, the power of attorney is exercisable and the exercise by the Security Agent (or any Delegate or substitute) of its powers shall, as between the Security Agent (or any Delegate or substitute) and any third party, be conclusive evidence of the Security Agent's right (or the right of any Delegate or substitute) to exercise the same.

## **11.5 Delegation**

The Security Agent may delegate to any person or persons (including a Receiver and persons designated by him) all or any of the powers and discretions conferred on the Security Agent by Clause 11 (*Power of Attorney*) and may do so on terms authorising successive sub-delegations.

## **11.6 Power of Attorney to close Registry**

The Owner by way of further security has agreed to execute a Power of Attorney in favour of the Security Agent in the form set out in Appendix A **Provided that** such power shall not be exercisable by or on behalf of the Security Agent until the Mortgage and this Deed shall have become immediately enforceable pursuant to Clause 6.1 (*Right to enforce security*).

## **11.7 Duration**

The power of attorney constituted by Clause 11.1 (*Appointment*) shall be granted for the duration of the Security Period.

# **12 INCORPORATION OF FACILITY AGREEMENT PROVISIONS**

## **12.1 Incorporation of specific provisions**

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

- (a) Clause 12.2 (*Tax gross-up*);
- (b) Clause 32.6 (*No set-off by Borrower*);
- (c) Clause 34 (*Bail-in*);
- (d) Clause 35 (*Notices*);

- (e) Clause 37 (*Partial Invalidity*);
- (f) Clause 38 (*Remedies and Waivers*);
- (g) Clause 41 (*Irrevocable Payment*); and
- (h) Clause 45 (*Counterparts*).

## **12.2 Incorporation of general provisions**

Clause 12.1 (*Incorporation of specific provisions*) is without prejudice to the application to the Mortgage and this Deed of any provision of the Facility Agreement which, by its terms, applies or relates to the Finance Documents generally or the Mortgage and/or this Deed specifically.

## **13 SUPPLEMENTAL**

### **13.1 No restriction on other rights**

Nothing in the Mortgage or this Deed shall be taken to exclude or restrict any power, right or remedy which the Security Agent or any other Secured Party may at any time have under:

- (a) any other Finance Document; or
- (b) the law of any country or territory the courts of which have or claim any jurisdiction in respect of the Owner or the Ship.

### **13.2 Exercise of other rights**

The Security Agent may exercise any right under the Mortgage and this Deed before it or any other Secured Party has exercised any right referred to in paragraphs (a) or (b) of Clause 13.1 (*No restriction on other rights*).

### **13.3 Settlement or discharge conditional**

Any settlement or discharge under the Mortgage and this Deed (or either of them) between the Security Agent or any other Secured Party and the Owner shall be conditional upon no security or payment to the Security Agent or any other Secured Party by the Owner or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.

## **14 CHANGES TO THE PARTIES**

### **14.1 Owner**

The Owner may not assign any of its rights or transfer any of its rights or obligations under this Deed.

### **14.2 Security Agent**

The Security Agent may:

- (a) assign any of its rights; or
- (b) transfer any of its rights and obligations,



under this Deed in accordance with the provisions of the Facility Agreement.

## **15 GOVERNING LAW**

### **15.1 English law**

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

### **15.2 Maltese process agent**

If any legal action or proceedings arising out of or in connection with the Mortgage or the Deed or the other Finance Documents is begun in Malta any writ, judgment or notice of proceedings or other legal process shall be sufficiently served on the Owner if served on and delivered to JB Sorotto Limited at Exchange Buildings, Republic Street, Valletta, VLT, 1117, Malta, whom the Owner hereby nominates as its attorneys in Malta for these purposes and who have signified their acceptance of such nomination by delivering to the Security Agent letters in the form set out in Appendix B. The Owner covenants with the Security Agent not to revoke the appointment contained in this Clause and, if any person appointed pursuant to this Clause is unable to fulfil his obligations pursuant to the letter of acceptance, to procure that the Security Agent is forthwith informed in writing that another suitable person resident in Malta is appointed legal representative in place of that original appointee and that the Security Agent is informed promptly of the name and address of that substitute person.

### **15.3 Action against Ship**

Recognising the Security Agent's right to enforce its security against the Ship, the Parties agree that nothing in Clause 16.1 (*Jurisdiction*) or Clause 15.2 (*Maltese process agent*) shall prevent or restrict the Security Agent's rights to arrest and take in rem action against the Ship in any jurisdiction where the Ship shall be found lying or is expected to call and to commence in personam proceedings against the Owner in that jurisdiction in support of in rem proceedings, as may be permitted under local law in that jurisdiction. For the purpose of any action which the Security Agent may bring before the courts of that jurisdiction or other judicial authority and for the purpose of any action which the Security Agent may bring against the Ship, any writ, notice, judgment or other legal process or documents may (without prejudice to any other method of service under applicable law) be served upon the Master of the Ship (or upon anyone acting as the Master) and such service shall be deemed good service on the Owner for all purposes.

## **16 ENFORCEMENT**

### **16.1 Jurisdiction**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding 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) The Owner accepts that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary.
- (c) To the extent allowed by law, this Clause 16.1 (*Jurisdiction*) is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings

relating to a Dispute in any other courts with jurisdiction (whether under the law of any country, an international convention or otherwise). To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

**This Deed has been executed as a Deed and delivered on the date stated at the beginning of this Deed.**

EXECUTION PAGE

OWNER

EXECUTED AS A DEED

By **SUMMER WIND SHIPPING LIMITED** )

acting by Emmanouil Kouligkas )

being ~~an attorney-in-fact~~ a director )

in the presence of: )

Witness' signature: )

Witness' name: Sofia Apostolopoulou )

Witness' address: Esher, KT10 0TZ )

SECURITY AGENT

EXECUTED as a DEED )

by **CIT BANK, N.A.** )

acting by )

being an attorney-in-fact )

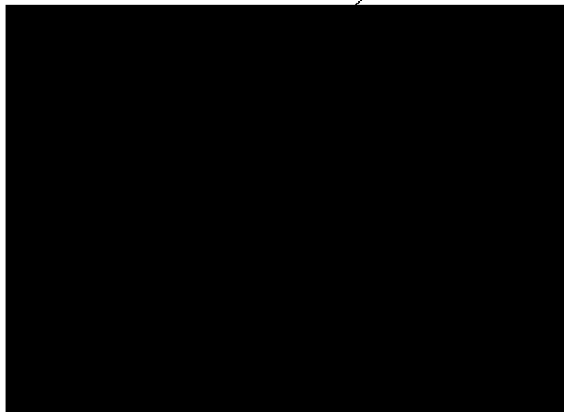
in the presence of: )

)

Witness' signature: )

Witness' name: )

Witness' address: )



EXECUTION PAGE

OWNER

EXECUTED AS A DEED )  
By SUMMER WIND SHIPPING LIMITED )  
acting by )  
being an attorney-in-fact )  
in the presence of: )  
 )  
Witness' signature: )  
Witness' name: )  
Witness' address: )

SECURITY AGENT

EXECUTED as a DEED )  
by CIT BANK, N.A. )  
acting by )  
being an attorney-in-fact )  
in the presence of: )  
 )  
Witness' signature: )  
Witness' name: )  
Witness' address: )

[REDACTED]

Andrew Wilson  
Attorney-in-fact

[REDACTED]

Guy Davis  
Trainee Solicitor  
Watson Farley & Williams LLP  
15 Appold Street  
London EC2A 2HB

## APPENDIX A

### POWER OF ATTORNEY

By these presents, we, **SUMMER WIND SHIPPING LIMITED** having its registered office in 13-14 Hobart Place, London SW1W 0HH, England do hereby nominate and appoint **CIT BANK, N.A.** acting through its office at 11 West 42<sup>nd</sup> Street, New York, New York 10036, USA as our special attorney and authorise it to apply for the closure of Maltese Registry in respect of the vessel "GUANGZHOU TRADER" in terms of Section 28 of the Merchant Shipping Act (Cap. 234 Laws of Malta) in our name and on our behalf and to pay all such fees, make all such declarations and receive all such certificates, including the deletion certificate as may be necessary for the proper fulfilment of the mandate.

Our attorney is authorised to delegate all his powers hereunder in writing.

This power of attorney is irrevocable and is granted in terms of article 1857(3) of the Civil Code (Cap. 16 Laws of Malta) by way of security for the rights of CIT BANK, N.A. in terms of a Deed of Covenants to which this Appendix is attached.

[●] 2021

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for and on behalf of

**SUMMER WIND SHIPPING LIMITED**

Signed in the presence of:

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## APPENDIX B

### APPOINTMENT OF JUDICIAL REPRESENTATIVE

We, JB Sorotto Limited of Exchange Buildings, Republic Street, Valletta, VLT 1117, Malta, agree to act as judicial representative for **SUMMER WIND SHIPPING LIMITED** (the "**Owner**") of 13-14 Hobart Place, London SW1W 0HH, England in connection with any proceedings in Malta pursuant to a Deed of Covenant dated [●] 2021 and entered into between the Owner and yourselves, **CIT BANK, N.A.** of the United States of America subject to the conditions that:

- (a) We will not be held personally responsible for any costs and/or fees connected with and incidental thereto; and
- (b) We will give you prompt notice of any failure by the Owner to keep us in sufficient funds for the purpose of acting as its agent for service of process in Malta and agree not to terminate our appointment without giving you reasonable notice to pay those funds and a reasonable period within which to effect payment.

We hereby undertake to notify you in the event that we shall cease to be located at our address stated above and to advise you forthwith of any new address.

[*date*]

Yours sincerely

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For and on behalf of  
**JB SOROTTO LIMITED**

In the presence of:

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