

MR01

Particulars of a charge

13/190157



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

**You can use the WebFiling service to file this form online.**  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument.

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument. Use form MR08.

For further information, please  
refer to our guidance at:  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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

 You **must** enclose a certified copy of the instrument with this form. It will be scanned and placed on the public record.

TUESDAY



\*S311417C\*  
SCT 11/02/2014 #6  
COMPANIES HOUSE

**1 Company details**

Company number S C 2 9 7 8 4 6

Company name in full Roosalka Shipping Limited

For official use

→ **Filling in this form**  
Please complete in typescript or in  
bold black capitals.

All fields are mandatory unless  
specified or indicated by \*

**2 Charge creation date**

Charge creation date 2 7 0 1 2 0 1 4

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

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

Name Standard Chartered Bank

Name

Name

Name

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

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

# MR01

## Particulars of a charge

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### Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security.

#### Continuation page

Please use a continuation page if you need to enter more details.

Description

the motor vessel TULPAR registered in the ownership of Roosalka Shipping Limited with the Cayman Islands Shipping Registry with Official Number 735570 and includes any share or interest in that vessel together with all her engines, machinery, boats, tackle, outfit, fuels, spares, consumable and other stores, belongings and appurtenances, whether on board or ashore, including any which may in the future be put on board or may in the future be intended to be used for the vessel if on shore.

5

### Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ Yes

☐ No

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### Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

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### Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ Yes

☐ No

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Particulars of a charge

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**Trustee statement ①**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

① This statement may be filed after the registration of the charge (use form MR06).

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**Signature**

Please sign the form here.

Signature

Signature

X *[Signature]* X  
*[Signature]*

This form must be signed by a person with an interest in the charge.

MR01

Particulars of a charge



**Presenter information**

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name **GAVIN WHITE**

Company name  
**Pinsent Masons LLP**

Address **Princes Exchange**

**1 Earl Grey Street**

Post town **Edinburgh**

County/Region

Postcode **E H 3 9 A Q**

Country

DX **DX ED 723301 EDINBURGH 43**

Telephone **0131 777 7000**



**Certificate**

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



**Checklist**

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

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

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



**Important information**

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



**How to pay**

**A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.**

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



**Where to send**

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

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

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

**For companies registered in Scotland:**

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

**For companies registered in Northern Ireland:**

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



**Further information**

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

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



**FILE COPY**

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

Company number: 297846

Charge code: SC29 7846 0008

The Registrar of Companies for Scotland hereby certifies that a charge dated 27th January 2014 and created by ROOSALKA SHIPPING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th February 2014.

Given at Companies House, Edinburgh on 13th February 2014



**Companies House**



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

**DATED** 27 January **2014**

**ROOSALKA SHIPPING LIMITED**

**- and -**

**STANDARD CHARTERED BANK**

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**DEED OF COVENANTS**  
**m.v. "TULPAR"**

---

Certified a true copy this 11<sup>th</sup> day of February 2014

S. HARWOOD  
**Stephenson Harwood LLP**  
**1 Finsbury Circus**  
**London**  
**EC2M 7SH**

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**STEPHENSON HARWOOD**

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## DEED OF COVENANTS

Dated: 27 January 2014

### BETWEEN:

- (1) **ROOSALKA SHIPPING LIMITED**, a company incorporated under the laws of Scotland whose registered office is at Exchange Tower, 19 Canning Street, Edinburgh, EH3 8EH, United Kingdom (the "Owner"); and
- (2) **STANDARD CHARTERED BANK**, acting through its office at 5<sup>th</sup> Floor, 1 Basinghall Avenue, London EC2V 5DD (the "Mortgagee").

### WHEREAS:

- (A) Each of the banks listed in schedule 1 to the Loan Agreement (as defined below) (collectively the "Lenders") has agreed to lend to Nico Middle East Limited (the "Borrower") its participation in a loan not exceeding forty million Dollars (\$40,000,000) (the "Loan") on the terms and subject to the conditions set out in a loan agreement dated 21 October 2013 made between the Borrower as borrower, the Lenders as lenders, HSBC Bank Plc as agent for the Lenders, HSBC Bank Middle East Limited and Standard Chartered Bank as mandated lead arrangers and the Mortgagee as security agent (the "Loan Agreement").
- (B) Pursuant to the Loan Agreement, the Owner and others have amongst other things executed and delivered in favour of the Mortgagee as security agent for the Finance Parties a guarantee and indemnity dated 23 January 2014 (the "Guarantee") in respect of the obligations of the Borrower under the Finance Documents and the Owner has agreed to execute and deliver in favour of the Mortgagee as security agent for the Finance Parties a first priority statutory mortgage of all the shares in the Vessel, together with this Deed of Covenants, as security for the payment of the Indebtedness.
- (C) The Owner is the legal and beneficial owner of all the shares in the Vessel and has executed, delivered and registered in favour of the Mortgagee a statutory mortgage with first priority bearing the same date as this Deed over all the shares in the Vessel (the "Mortgage").



**THIS DEED WITNESSES** as follows:

**1 Definitions and Interpretation**

**1.1 In this Deed:**

**"Assigned Property"** means the Insurances, the Earnings, the Bareboat Charter, any Charter and the Requisition Compensation.

**"Bareboat Charter"** means the bareboat charter dated 11 June 2006 (as amended on 6 September 2010) in respect of the Vessel entered into between the Owner and the Bareboat Charterer.

**"Bareboat Charterer"** means BUE Aktau LLP, a company incorporated in the Republic of Kazakhstan and having its principal place of business at 1<sup>st</sup> Floor, Business Center Vystavochniy Building 36A, Microdistrict 14, Aktau, Mangistau Oblast, Republic of Kazakhstan.

**"Charter"** means any time charter, consecutive voyage charter or other contract of employment (other than the Bareboat Charter) entered into in respect of the Vessel by the Owner prior to or during the Facility Period the term of which (inclusive of any extension options) is in excess of twelve (12) months.

**"Charterer"** means any party other than the Owner that enters into a Charter.

**"Default Rate"** means interest at the rate calculated in accordance with clause 8.3 of the Loan Agreement.

**"Earnings"** means (i) all hires, freights, pool income and other sums payable to or for the account of the Owner in respect of the Vessel and/or any Charter and/or the Bareboat Charter including (without limitation) all remuneration for salvage and towage services, demurrage and detention moneys, contributions in general average, compensation in respect of any requisition for hire, and damages and other payments (whether awarded by any court or arbitral tribunal or by agreement or otherwise) for breach, termination or variation of any contract for the operation, employment or use of the Vessel and (ii) (to the extent not included in (i) above) the benefit of the Bareboat Charter and any Charter.

**"Indebtedness"** means the aggregate from time to time of: the amount of the Loan outstanding; all accrued and unpaid interest on the Loan; and all other sums of any nature (together with all accrued and unpaid interest on any of those sums) payable by the Security Parties or any of them to any of the Finance Parties under all or any of the Finance Documents at the date of this Deed or any later time or times.

**"Insurances"** means all policies and contracts of insurance (including all entries in protection and indemnity or war risks associations) which are from time to time taken out or entered into in respect of or in connection with the Vessel or her increased value or the Earnings and (where the context permits) all benefits under such contracts and policies, including all claims of any nature and returns of premium.

**"Mortgagees' Insurances"** means all policies and contracts of mortgagees' interest insurance, mortgagees' additional perils (oil pollution) insurance and any other insurance from time to time taken out by the Mortgagee in relation to the Vessel.

**"MRI"** means the mortgagee rights insurance policy.

**"Obligatory Insurances"** means the insurances and entries referred to in Clause 5.1 and, where applicable, those referred to in Clauses 5.2, 5.6 and/or 6.18.

**"Requisition Compensation"** means all compensation or other money which may from time to time be payable to the Owner as a result of the Vessel being requisitioned for title or in any other way compulsorily acquired (other than by way of requisition for hire).

**"Sub-Bareboat Charterer"** means BUE Kazakhstan Limited, a company incorporated in Scotland and having its registered office at Exchange Tower, 19 Canning Street, Edinburgh, EH3 8EH, United Kingdom.

**"Threshold Amount"** means five hundred thousand Dollars (\$500,000) or its equivalent in any other currency.

**"Time Charterer"** means Agip Kazakhstan North Caspian Operating Company N.V. having its registered office at Strawinskylaan 1725, 1077XX, Amsterdam,

The Netherlands.

"Vessel" means the motor vessel TULPAR registered in the ownership of the Owner with the Cayman Islands Shipping Registry with Official Number 735570 and includes any share or interest in that Vessel together with all her engines, machinery, boats, tackle, outfit, fuels, spares, consumable and other stores, belongings and appurtenances, whether on board or ashore, including any which may in the future be put on board or may in the future be intended to be used for the Vessel if on shore.

- 1.2 Unless otherwise specified in this Deed, or unless the context otherwise requires, all words and expressions defined in the Loan Agreement shall have the same meaning when used in this Deed.
- 1.3 In this Deed:
  - 1.3.1 words denoting the plural number include the singular and vice versa;
  - 1.3.2 words denoting persons include corporations, partnerships, associations of persons (whether incorporated or not) or governmental or quasi-governmental bodies or authorities and vice versa;
  - 1.3.3 references to Clauses are references to clauses of this Deed;
  - 1.3.4 references to this Deed include the recitals to this Deed;
  - 1.3.5 the headings and contents page(s) are for the purpose of reference only, have no legal or other significance, and shall be ignored in the interpretation of this Deed;
  - 1.3.6 references to any document (including, without limitation, to any of the Finance Documents) are, unless the context otherwise requires, references to that document as amended, supplemented, novated or replaced from time to time;
  - 1.3.7 references to statutes or provisions of statutes are references to those statutes, or those provisions, as from time to time amended, replaced or re-enacted; and

1.3.8 references to any Finance Party include its successors, transferees and assignees.

1.4 In the Mortgage:

1.4.1 references to "interest" means interest covenanted to be paid in accordance with Clauses 3, 5.17 and 8.4;

1.4.2 references to "principal" means all other sums of money for the time being comprised in the Indebtedness; and

1.4.3 the expression "the sums for the time being due on this security" means the whole of the Indebtedness.

**2 Representations and Warranties**

The Owner represents and warrants to the Mortgagee that:

- 2.1 save as otherwise provided for in any legal opinions delivered pursuant to the Loan Agreement, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of the Mortgage or this Deed that either of them be filed, recorded or enrolled with any governmental authority or agency or stamped with any stamp or similar transaction tax, except for the registration of the Mortgage at the Vessel's Ship Registry; and
- 2.2 it is the sole legal and beneficial owner of all the shares in the Vessel and (with the exception of the Mortgage and this Deed) the Vessel is free from any Encumbrance (other than any Permitted Encumbrance that may arise from time to time) or (save for any Charter) other third party right or interest and will not allow any Encumbrance (other than any Permitted Encumbrance that may arise from time to time) or (save for any Charter) other third party right or interest in respect of the Vessel to arise now or at any later time until the end of the Facility Period; and
- 2.3 the Vessel is not under arrest or in the possession of any person (other than her master and crew) who may become entitled to assert a maritime or possessory lien on her; and

2.4 the Vessel is insured and classed in accordance with the requirements of this Deed.

**3 Covenant to Pay and Perform**

The Owner agrees in accordance with the Guarantee to guarantee and indemnify the Finance Parties in respect of all moneys comprised in the Indebtedness and to perform all its other obligations arising out of the Finance Documents as and when the same shall be due for payment or performance.

**4 Mortgage and Amount Secured**

4.1 In order to secure the payment of the Indebtedness and the performance by the Owner of all its other obligations under or arising out of the Finance Documents the Owner, by the Mortgage and this Deed, mortgages and charges the Vessel to the Mortgagee as security agent for the Finance Parties with full title guarantee.

4.2 The security constituted by the Mortgage and this Deed shall be continuing and shall not be satisfied by any intermediate payment or satisfaction until the Indebtedness shall have been paid in full and none of the Finance Parties shall be under any further actual or contingent liability to any third party in relation to the Vessel, the Assigned Property or any other matter referred to in the Finance Documents. The security constituted by the Mortgage and this Deed shall be in addition to any other security now or in the future held by any of the Finance Parties for or in respect of the Indebtedness, and shall not merge with or prejudice or be prejudiced by any such security or any other contractual or legal rights of any of the Finance Parties nor be affected by any irregularity, defect or informality or by any release, exchange or variation of any such security. Section 93 of the Law of Property Act 1925, or any provision which the Mortgagee considers analogous to that provision under the law of any other relevant jurisdiction, shall not apply to the security constituted by the Mortgage and/or this Deed.

**5 Insurance**

5.1 The Owner covenants to ensure at its own expense throughout the Facility Period that:

5.1.1 the Vessel remains insured against hull and machinery, marine and war risks including blocking and trapping on an agreed value basis for an amount which is the greater from time to time of (a) her full market value (as determined pursuant to the provisions of clause 7.7 of the Loan Agreement) and (b) an amount which (when aggregated with the amounts for which any other vessels providing first priority security for the Indebtedness are insured for such risks) equals one hundred and twenty per cent (120%) of the aggregate of the amount of the Loan outstanding;

5.1.2 the Vessel remains entered in a protection and indemnity association in both protection and indemnity classes, or remains otherwise insured against protection and indemnity risks and liabilities (including, without limitation, protection and indemnity war risks); and

5.1.3 the Vessel remains insured against oil pollution caused by the Vessel for an amount of not less than one billion Dollars (\$1,000,000,000) unless that risk is covered to the satisfaction of the Mortgagee by the Vessel's protection and indemnity entry or insurance; and

5.1.4 any other insurances that the Mortgagee may reasonably require from time to time that the Mortgagee may deem necessary in its absolute discretion.

5.2 The Mortgagee agrees that, if and for so long as the Vessel may be laid up with the approval of the Mortgagee, the Owner may at its own expense take out port risk insurance on the Vessel in place of hull and machinery insurance.

5.3 The Owner undertakes to place the Obligatory Insurances in such markets, in such currency, on such terms and conditions, and with such brokers and underwriters as the Mortgagee shall have previously approved in writing and:

5.3.1 in the case of hull and machinery, marine, war risks and protection and indemnity risks and liabilities shall be placed with such underwriters that

have a minimum rating of A from Standard & Poor's (or an equivalent rating from another rating agency approved by the Mortgagee); and

- 5.3.2 in the case of protection and indemnity risks and liabilities with a member of the International Group of Protection and Indemnity Associations.

The Owner shall not alter the terms of any of the Obligatory Insurances nor allow any person (other than the Bareboat Charterer, the Sub-Bareboat Charterer or, if required under the terms of a time charter, any time charterer of the Vessel) to be co-assured under any of the Obligatory Insurances without the prior written consent of the Mortgagee, and will supply the Mortgagee from time to time on request with such information as the Mortgagee may in its discretion require with regard to the Obligatory Insurances and the brokers, underwriters or associations through or with which the Obligatory Insurances are placed.

- 5.4 The Owner shall reimburse the Mortgagee on demand for all costs and expenses incurred by the Mortgagee in obtaining from time to time a report on the adequacy of the Obligatory Insurances, the Mortgagees' Insurances and any MRI from an insurance adviser instructed by the Mortgagee PROVIDED ALWAYS THAT unless a Default has occurred and is continuing when the cost of all such reports shall be for the account of the Owner, the Owner shall only be obliged to reimburse the Mortgagee for one (1) such report per calendar year.
- 5.5 The Owner undertakes duly and punctually to pay all premiums, calls and contributions, and all other sums at any time payable in connection with the Obligatory Insurances, and, at its own expense, to arrange and provide any guarantees from time to time required by any protection and indemnity or war risks association. From time to time at the Mortgagee's request, the Owner will provide the Mortgagee with evidence satisfactory to the Mortgagee that such premiums, calls, contributions and other sums have been duly and punctually paid; that any such guarantees have been duly given; and that all declarations and notices required by the terms of any of the Obligatory Insurances to be made or given by or on behalf of the Owner to brokers, underwriters or associations have been duly and punctually made or given.
- 5.6 The Owner will comply in all respects with all terms and conditions of the Obligatory Insurances and will make all such declarations to brokers,

underwriters and associations as may be required to enable the Vessel to operate in accordance with the terms and conditions of the Obligatory Insurances. The Owner will not do, nor permit to be done, any act, nor make, nor permit to be made, any omission, as a result of which any of the Obligatory Insurances may become liable to be suspended, cancelled or avoided, or may become unenforceable, or as a result of which any sums payable under or in connection with any of the Obligatory Insurances may be reduced or become liable to be repaid or rescinded in whole or in part. In particular, but without limitation, the Owner will not permit the Vessel to be employed other than in conformity with the Obligatory Insurances without first taking out additional insurance cover in respect of that employment in all respects to the satisfaction of the Mortgagee, and the Owner will promptly notify the Mortgagee of any new requirement imposed by any broker, underwriter or association in relation to any of the Obligatory Insurances.

- 5.7 The Owner will, no later than fourteen (14) days (or, in the case of war risks, no later than seven (7) days), before the expiry of any of the Obligatory Insurances renew them and shall promptly give the Mortgagee such details of those renewals as the Mortgagee may require.
- 5.8 The Mortgagee shall be at liberty to take out Mortgagees' Insurances in relation to the Vessel for an amount which (when aggregated with the amounts for which other vessels providing first priority security for the Indebtedness are insured for such risks) equals one hundred and twenty per cent (120%) of the aggregate of the amount of the Loan outstanding, and the Owner shall from time to time on demand reimburse the Mortgagee for all costs, premiums and expenses paid or incurred by the Mortgagee in connection with any Mortgagees' Insurances.
- 5.9 The Mortgagee shall be at liberty to take out the MRI in relation to the Vessel for an amount, with such insurers, on such terms and at such times, as the Mortgagee (acting on the instructions of the Majority Lenders in their absolute discretion) deems necessary. The Owner shall from time to time on demand reimburse the Mortgagee for all costs, premiums and expenses paid or incurred by the Mortgagee in connection with any MRI.
- 5.10 The Owner shall deliver to the Mortgagee certified copies (and, if required by the Mortgagee, the originals) of all policies, certificates of entry and other documents



relating to the Insurances (including, without limitation, receipts for premiums, calls or contributions), shall procure that the Mortgagee is noted as first priority mortgagee in the insurance contracts and shall procure that letters of undertaking in such form as the Mortgagee may approve shall be issued to the Mortgagee by the brokers through which the Insurances are placed (or, in the case of protection and indemnity or war risks associations, by their managers) which shall confirm that the notices of assignment of insurance and the loss payable clause contained in the Assignments in respect of the Vessel are noted in the insurance contracts. If the Vessel is at any time during the Facility Period insured under any form of fleet cover, the Owner shall procure that those letters of undertaking contain confirmation that the brokers, underwriters or association (as the case may be) will not set off claims relating to the Vessel against premiums, calls or contributions in respect of any other vessel or other insurance, and that the insurance cover of the Vessel will not be cancelled by reason of non-payment of premiums, calls or contributions relating to any other vessel or other insurance. Failing receipt of those confirmations, the Owner will instruct the brokers, underwriters or association concerned to issue a separate policy or certificate for the Vessel in the sole name of the Owner or of the Owner's brokers as agents for the Owner.

- 5.11 The Owner shall promptly provide the Mortgagee with full information regarding any casualty or other accident or damage to the Vessel the cost of which exceeds the Threshold Amount.
- 5.12 The Owner agrees that, at any time after the occurrence and during the continuation of an Event of Default, the Mortgagee shall be entitled to collect, sue for, recover and give a good discharge for all claims in respect of any of the Insurances; to pay collecting brokers the customary commission on all sums collected in respect of those claims; to compromise all such claims or refer them to arbitration or any other form of judicial or non-judicial determination; and otherwise to deal with such claims in such manner as the Mortgagee shall in its discretion think fit.
- 5.13 Whether or not an Event of Default shall have occurred or be continuing, the proceeds of any claim under any of the Insurances in respect of a Total Loss in

respect of the Vessel shall be paid to the Mortgagee and applied by the Mortgagee in accordance with Clause 10.

- 5.14 In the event of any claim in respect of any of the Insurances (other than in respect of a Total Loss in respect of the Vessel), if the Owner shall fail to reach agreement with any of the brokers, underwriters or associations for the immediate restoration of the Vessel, or for payment to third parties, within such reasonable time as the Mortgagee may stipulate, the Mortgagee shall be entitled to require payment to itself. In the event of any dispute arising between the Owner and any broker, underwriter or association with respect to any obligation to make any payment to the Owner or to the Mortgagee under or in connection with any of the Insurances, or with respect to the amount of any such payment, the Mortgagee shall be entitled to settle that dispute directly with the broker, underwriter or association concerned. Any such settlement shall be binding on the Owner.
- 5.15 The Mortgagee agrees that any amounts which may become due under any protection and indemnity entry or insurance shall be paid to the Owner to reimburse the Owner for, and in discharge of, the loss, damage or expense in respect of which they shall have become due, unless, at the time the amount in question becomes due, an Event of Default shall have occurred and be continuing, in which event the Mortgagee shall be entitled to receive the amounts in question and to apply them either in reduction of the Indebtedness or, at the option of the Mortgagee, to the discharge of the liability in respect of which they were paid.
- 5.16 The Owner shall not settle, compromise or abandon any claim under or in connection with any of the Insurances (other than a claim of less than the Threshold Amount arising other than from a Total Loss in respect of the Vessel) without the prior written consent of the Mortgagee.
- 5.17 If the Owner fails to effect or keep in force the Obligatory Insurances, the Mortgagee may (but shall not be obliged to) effect and/or keep in force such insurances on the Vessel and such entries in protection and indemnity or war risks associations as the Mortgagee in its discretion considers necessary, and the Mortgagee may (but shall not be obliged to) pay any unpaid premiums, calls or contributions. The Owner will reimburse the Mortgagee from time to time on demand for all such premiums, calls or contributions paid by the Mortgagee,

together with interest at the Default Rate from the date of payment by the Mortgagee until the date of reimbursement.

- 5.18 The Owner shall comply strictly with the requirements of any legislation relating to pollution or protection of the environment which may from time to time be applicable to the Vessel in any jurisdiction in which the Vessel shall trade and in particular (if the Vessel is to trade in the United States of America and Exclusive Economic Zone (as defined in the Act)) the Owner shall comply strictly with the requirements of the United States Oil Pollution Act 1990 (the "Act"). Before any such trade is commenced and during the entire period during which such trade is carried on, the Owner shall:

5.18.1 pay any additional premiums required to maintain protection and indemnity cover for oil pollution up to the limit available to the Owner for the Vessel in the market; and

5.18.2 make all such quarterly or other voyage declarations as may from time to time be required by the Vessel's protection and indemnity association in order to maintain such cover, and promptly deliver to the Mortgagee copies of such declarations; and

5.18.3 submit the Vessel to such additional periodic, classification, structural or other surveys which may be required by the Vessel's protection and indemnity insurers to maintain cover for such trade and promptly deliver to the Mortgagee copies of reports made in respect of such surveys; and

5.18.4 implement any recommendations contained in the reports issued following the surveys referred to in Clause 5.18.3 within the relevant time limits, and provide evidence satisfactory to the Mortgagee that the protection and indemnity insurers are satisfied that this has been done; and

5.18.5 in addition to the foregoing (if such trade is in the United States of America and Exclusive Economic Zone):

- (a) obtain and retain a certificate of financial responsibility under the Act in form and substance satisfactory to the United States Coast Guard and provide the Mortgagee with a copy; and

- (b) procure that the protection and indemnity insurances do not contain a US Trading Exclusion Clause or any other analogous provision and provide the Mortgagee with evidence that this is so; and
- (c) comply strictly with any operational or structural regulations issued from time to time by any relevant authorities under the Act so that at all times the Vessel falls within the provisions which limit strict liability under the Act for oil pollution.

## **6 Operation and Maintenance**

The Owner covenants with the Mortgagee:

- 6.1 to keep the Vessel seaworthy and in a state of complete repair (fair wear and tear excepted) and in compliance with the requirements from time to time of all applicable laws, conventions and regulations and of her insurers; and
- 6.2 save for registration of the Vessel in the Bareboat Charter Registry of the Republic of Kazakhstan, to maintain the registration of the Vessel under its current flag; to effect and maintain registration of the Mortgage at the Vessel's Ship Registry; and not cause nor permit to be done any act or omission as a result of which either of those registrations might be defeated or imperilled; and
- 6.3 to maintain the Vessel in a condition entitling the Vessel to the highest class applicable to vessels of her type with Det Norske Veritas, Bureau Veritas, Lloyds Register, American Bureau of Shipping or such other full member of the International Association of Classification Societies acceptable to the Mortgagee and, unless otherwise agreed in writing by the Mortgagee, free of overdue recommendations and qualifications; and
- 6.4 to take all actions necessary to promptly remove any recommendations and qualifications in respect of the Vessel made by the relevant classification society listed in Clause 6.3; and
- 6.5 to comply in all respects with the Sanctions; and

- 6.6 not without the prior written consent of the Mortgagee to make, nor permit nor cause to be made, any material adverse change in the structure, type, speed or capabilities of the Vessel; and
- 6.7 to procure that all repairs to the Vessel or replacements of parts or equipment of the Vessel are effected in such a way as not to diminish the value of the Vessel and with replacement parts or equipment the property of the Owner and free of all Encumbrances (other than Permitted Encumbrances); and
- 6.8 upon being given reasonable notice by the Mortgagee, to permit and procure that any Charterer, the Time Charterer, the Bareboat Charterer and the Sub-Bareboat Charterer permit the physical inspection of the Vessel by the Mortgagee and all persons appointed by the Mortgagee to board the Vessel from time to time during the Facility Period in order to inspect the Vessel's state and condition. If the Vessel shall not be in a state and condition which complies with the requirements of this Deed, the Owner shall effect such repairs that the Mortgagee may reasonably request which shall be effected promptly, failing which the Mortgagee shall be permitted to effect such repairs as shall in the reasonable opinion of the Mortgagee be necessary to ensure compliance with the terms of this Deed, without prejudice to the Mortgagee's other rights under or pursuant to the Mortgage or this Deed. The Mortgagee will use reasonable endeavours to ensure that the operation of the Vessel is not adversely affected as a result of such inspections; and
- 6.9 as soon as practicable to notify the Mortgagee of any arrest, detention, requisition or seizure of the Vessel, and to cause the Vessel to be released from arrest, detention, requisition or seizure as quickly as possible, and in any event within fourteen days from the date of arrest, detention, requisition or seizure, and as soon as practicable to notify the Mortgagee in the same manner of the release of the Vessel; and
- 6.10 from time to time on written request of the Mortgagee to produce to the Mortgagee written evidence satisfactory to the Mortgagee confirming that the master and crew of the Vessel have no claims for wages beyond the ordinary arrears and that the master has no claim for disbursements other than those properly incurred by him in the ordinary course of trading of the Vessel on the voyage then in progress; and

- 6.11 not during the Facility Period to sell, agree to sell, or otherwise dispose of, or agree to dispose of, any shares in the Vessel without the prior written consent of the Mortgagee; and
- 6.12 to hold the entire legal and beneficial interest in the Vessel, the Earnings and the Insurances free from all Encumbrances and other interests and rights of every kind except for any Charter or Permitted Encumbrances existing from time to time in respect of the Vessel; and
- 6.13 not during the Facility Period to change the name of the Vessel without the prior written consent of the Mortgagee; and
- 6.14 not during the Facility Period to lay the Vessel up without the prior written consent of the Mortgagee; and
- 6.15 in the event of any requisition or seizure of the Vessel, to take all lawful steps to recover possession of the Vessel as soon as it is entitled to do so; and
- 6.16 to give to the Mortgagee from time to time during the Facility Period on request such information as the Mortgagee may require with regard to the Vessel's employment, position and state of repair and, on the Mortgagee's request, to supply the Mortgagee with copies of all charterparties and other contracts of employment relating to the Vessel and copies of the Vessel's deck and engine logs; and
- 6.17 to comply with all requirements from time to time of the Vessel's classification society and to give to the Mortgagee from time to time during the Facility Period on request copies of all classification certificates of the Vessel and reports of surveys required by the Vessel's classification society (the Owner by its execution of this Deed irrevocably authorising the Mortgagee to obtain such information and documents from the Vessel's classification society as the Mortgagee may from time to time require), and to notify the Mortgagee promptly of any requirement or recommendation imposed by the Vessel's classification society; and
- 6.18 not during hostilities (whether or not a state of war shall formally have been declared and including, without limitation, any civil war) to permit the Vessel to be employed in carrying any goods which may be declared to be contraband of

war or which may render the Vessel liable to confiscation, seizure, detention or destruction, nor to permit the Vessel to enter any area which is declared a war zone by any governmental authority or by the Vessel's insurers unless the Mortgagee shall have consented to that employment or voyage in writing, which consent (if given) shall be conditional on the Owner effecting at its own expense such additional insurances as the Mortgagee shall consider necessary or desirable and, if required by the Mortgagee, specifically assigning those insurances to the Mortgagee by such documents as the Mortgagee may require; and

6.19 not without the prior written consent of the Mortgagee or as otherwise permitted pursuant to the terms of the Finance Documents to let the Vessel on any demise charter (other than under the Bareboat Charter), nor to employ the Vessel in any way which might impair the security created by the Finance Documents; and

6.20 immediately on the execution of a Charter to notify the Mortgagee of the following terms of such Charter:

- (a) the rate;
- (b) the term (including options);
- (c) the counterparty; and
- (d) the operating expenses.

Within seven (7) Business Days following the execution of any Charter, the Owner shall procure that a copy, certified as being true, accurate and complete by a director, the secretary or legal advisor of the Owner, of such Charter is delivered to the Mortgagee, shall procure that the terms of the relevant Assignment are complied with and shall deliver to the Mortgagee any necessary evidence that the relevant Charter is capable of assignment pursuant to the relevant Assignment.

6.21 not without the prior written consent of the Mortgagee to enter into any agreement or arrangement for sharing the Earnings; and

6.22 duly to perform (unless prevented by force majeure), and to take all necessary steps to enforce the performance by charterers and shippers of, all charterparties and other contracts of employment and all bills of lading and other contracts relating to the Vessel; and

- 6.23 not following the occurrence of and during the continuation of an Event of Default to let the Vessel on charter or renew or extend any charter or other contract of employment of the Vessel, nor agree to do so, without the prior written consent of the Mortgagee; and
- 6.24 to pay and discharge when due from time to time all taxes, levies, duties, fines and penalties imposed on the Vessel or the Earnings, or on the Owner, its income, profits, capital gains or any of its property other than taxes, levies, duties, fees or penalties which are being disputed by the Owner in good faith in respect of which the Owner has made adequate provision for payment in the event that the Owner is in time required to pay such taxes, levies, duties, fines or penalties; and
- 6.25 not at any time during the Facility Period without the prior written consent of the Mortgagee (and then subject to such conditions as the Mortgagee may impose) to create nor grant nor permit to exist any Encumbrance over the Vessel or any share in the Vessel or any of the Assigned Property other than any Permitted Encumbrances existing from time to time in respect of the Vessel; and
- 6.26 to notify the Mortgagee immediately the Owner becomes aware of any legal proceedings or arbitration involving the Vessel or the Owner where the amount claimed by any party (ignoring any counterclaim or defence of set-off) exceeds or may reasonably be expected to exceed the Threshold Amount; and
- 6.27 not without the prior written consent of the Mortgagee to put the Vessel into the possession of any person for the purpose of work or repairs estimated to cost more than the Threshold Amount (except for repairs the cost of which is recoverable under the Insurances and in respect of which the insurers have agreed to make payment in accordance with any applicable loss payable clause) unless either (i) that person shall have given an undertaking to the Mortgagee in such terms as the Mortgagee shall require not to exercise a lien on the Vessel for the cost of the work or (ii) such works or repairs are of a nature that prudent ship owners or operators would undertake in the ordinary course of business and such works or repairs do not have a material adverse effect on the security created by the Mortgage or this Deed ; and



- 6.28 to keep proper books of account in respect of the Vessel and the Earnings and as and when required by the Mortgagee to make such books available for inspection on behalf of the Mortgagee; and
- 6.29 not without the prior written consent of the Mortgagee, and provided always that they have entered into a Manager's Undertaking, to appoint anyone (other than Nico Middle East Limited, Doha Marine Services WLL, BUE Kazakhstan Limited, Topaz Marine Saudi Arabia Ltd or BUE Caspian Limited) or any other Subsidiary of Nico Middle East Limited as commercial or technical managers of the Vessel, nor to terminate nor materially vary the arrangements for the commercial or technical management of the Vessel, nor to permit the commercial or technical management of the Vessel to be sub-contracted or delegated to any third party (other than Nico Middle East Limited, Doha Marine Services WLL, BUE Kazakhstan Limited, Topaz Marine Saudi Arabia Ltd, BUE Caspian Limited or any other Subsidiary of Nico Middle East Limited); and
- 6.30 to take all reasonable precautions to prevent any infringements of any anti drug legislation in any jurisdiction in which the Vessel shall trade and in particular (if the Vessel is to trade in the United States of America) to take all reasonable precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America and for this purpose to enter into a "Carrier Initiative Agreement" with the United States' Customs Service and to procure that the same or a similar agreement is maintained in full force and effect and that the Owner's obligations under that agreement are performed in respect of the Vessel; and
- 6.31 to comply, or procure that the operator of the Vessel will comply, with the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation (as the same may be amended from time to time) (the "ISM Code") or any replacement of the ISM Code and in particular, without limitation, to:
- 6.31.1 procure that the Vessel remains for the duration of the Facility Period subject to a safety management system developed and implemented in accordance with the ISM Code; and

- 6.31.2 maintain for the Vessel throughout the Facility Period a valid and current safety management certificate issued under paragraph 13.7 of the ISM Code ("SMC") and provide a copy to the Mortgagee; and
- 6.31.3 procure that the company responsible for the Vessel's compliance with the ISM Code under paragraph 1.1.2 of the ISM Code ("ISM Company") maintains throughout the Facility Period a valid and current Document of Compliance issued for the ISM Company under paragraph 13.2 of the ISM Code ("DOC") and provide a copy to the Mortgagee; and
- 6.31.4 notify the Mortgagee immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the SMC of the Vessel or of the DOC of the ISM Company; and
- 6.32 to comply in relation to the Vessel with the International Ship and Port Facility Security Code adopted by the International Maritime Organisation (as the same may be amended from time to time) (the "ISPS Code") or any replacement of the ISPS Code and in particular, without limitation, to:
  - 6.32.1 procure that the Vessel and the company responsible for the Vessel's compliance with the ISPS Code comply with the ISPS Code; and
  - 6.32.2 maintain for the Vessel throughout the Facility Period a valid and current International Ship Security Certificate issued under the ISPS Code ("ISSC") and provide a copy to the Mortgagee; and
  - 6.32.3 notify the Mortgagee immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC; and
- 6.33 to comply in relation to the Vessel with Annex VI (Regulations for the Prevention of Air Pollution from Ships) to the International Convention for the Prevention of Pollution from Ships 1973 (as modified in 1978 and 1997) (as the same may be amended from time to time) ("Annex VI") or any replacement of Annex VI and in particular, without limitation, to:
  - 6.33.1 procure that the Vessel's master and crew are familiar with, and that the Vessel complies with, Annex VI; and

- 6.33.2 maintain for the Vessel throughout the Facility Period a valid and current International Air Pollution Prevention Certificate issued under Annex VI ("IAPPC") and provide a copy to the Mortgagee; and
- 6.33.3 notify the Mortgagee immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC; and
- 6.34 not to amend, alter or vary any material term of any Charter or the Bareboat Charter, nor allow accession to any Charter or the Bareboat Charter, nor waive any material breach or excuse performance of any of the material obligations of the Charterer or the Bareboat Charterer (as the case may be) under or pursuant to such Charter or Bareboat Charter, without the prior written consent of the Mortgagee; and
- 6.35 other than the termination of a Charter or the Bareboat Charter as a result of (i) the Charterer or the Bareboat Charterer (as the case may be) not exercising its option to extend the period of the Charter or the Bareboat Charter or (ii) the Charter or the Bareboat Charter otherwise terminating where there has been no breach or default by a member of the Group, both pursuant to the terms thereof, not to terminate a Charter or the Bareboat Charter or withdraw the Vessel from service under a Charter or the Bareboat Charter without the prior written consent of the Mortgagee and subject to such terms and conditions as the Mortgagee may require.

## **7 Enforcement and Mortgagee's Powers**

- 7.1 If an Event of Default has occurred and is continuing, and the Agent shall demand payment of all or any part of the Indebtedness, the security constituted by the Mortgage and this Deed shall become immediately enforceable and the Mortgagee shall be entitled to exercise all or any of the rights, powers, discretions and remedies vested in the Mortgagee by this Clause without any requirement for any court order or declaration that an Event of Default has occurred. The Mortgagee's right to exercise those rights, powers, discretions and remedies shall be in addition to and without prejudice to all other rights, powers, discretions and remedies to which it may be entitled, whether by statute or otherwise. Provided an Event of Default has occurred and is continuing, the Mortgagee shall be entitled to exercise its rights, powers, discretions and remedies despite any rule of

law or equity to the contrary, and whether or not any previous default shall have been waived, and in particular without the limitations contained in Section 103 of the Law of Property Act 1925 or any statutory provision which the Mortgagee considers analogous to that section under the law of any other relevant jurisdiction.

7.2 In the circumstances described in Clause 7.1, the Mortgagee shall be entitled (but not obliged) to:

7.2.1 take possession of the Vessel wherever she may be; and/or

7.2.2 discharge the master and crew of the Vessel and employ a new master and crew; and/or

7.2.3 navigate the Vessel to such places as the Mortgagee may decide or detain or lay up the Vessel; and/or

7.2.4 in the name of the Mortgagee or the name of the Owner, demand, sue for, receive and give a good receipt for all sums due to the Owner in connection with the Vessel and, in the name of the Mortgagee or the name of the Owner or the name of the Vessel, commence such legal proceedings as it may consider appropriate, or conduct the defence of any legal proceedings commenced against the Vessel or the Owner in its capacity as owner of the Vessel; and/or

7.2.5 sell or dispose of all or any shares in the Vessel either by private treaty or auction, on such terms as the Mortgagee shall think fit (including deferred payment terms and with or without the benefit of any charterparty or other contract of employment), with the power to make a loan on such terms as the Mortgagee may decide to any prospective purchaser to assist in the purchase of the Vessel, and the power to postpone any sale, without being liable for any loss caused by any such sale or the postponement of any such sale; and/or

7.2.6 replace or repair any part of the Vessel or alter her to suit the Mortgagee's requirements and put her through all appropriate surveys; and/or

7.2.7 employ agents, servants and others on such terms as the Mortgagee may in its discretion determine; and/or

7.2.8 charter or load the Vessel on such terms and for the carriage of such cargoes as the Mortgagee may in its discretion determine.

7.3 For the avoidance of doubt, if the Mortgagee takes any action or enters into or completes any transaction pursuant to Clause 7.2 after an Event of Default has been remedied, that action or transaction shall not be affected by the remedying of the Event of Default.

## **8 Ancillary Provisions**

8.1 In connection with the exercise of its rights, powers, discretions and remedies under Clause 7 or otherwise as mortgagee of the Vessel, the Mortgagee shall have power to buy in, rescind or vary any contract for sale of the Vessel and generally to do all things in connection with the sale of the Vessel as it shall think fit.

8.2 On any sale of the Vessel by the Mortgagee, the purchaser shall not be bound to enquire whether the Mortgagee's power of sale has become exercisable or whether its exercise has become expedient, and the purchaser shall not be affected by any notice that the sale was or may have been irregular in any way. The receipt of the Mortgagee for any amounts paid to it shall be a complete discharge to the purchaser who shall not be concerned with the application of the payment or be answerable for any misapplication. As regards any purchaser, any such sale shall be deemed to be within the power of sale conferred on the Mortgagee by this Deed and at law and any remedy of the Owner in respect of any irregularity or impropriety shall be in damages only.

8.3 If the Mortgagee takes possession of the Vessel and until sale the Mortgagee shall be entitled to deal with the Vessel in all respects as if it were the owner of the Vessel.

8.4 The Mortgagee shall be entitled to recover from the Owner on demand all losses, expenses, payments and disbursements incurred by the Mortgagee in or about or incidental to the exercise by it of any of its rights, powers, discretions and remedies under Clause 7 or otherwise as mortgagee of the Vessel together with interest at the Default Rate. In addition, the Owner undertakes to reimburse the

Mortgagee within 3 Business Days of demand for all other sums which the Mortgagee may from time to time pay or become liable for in or about the protection, maintenance, enforcement or exercise of, or the preservation of any rights under, the Mortgage and/or this Deed or in or about the exercise by the Mortgagee of any of the powers vested in it under or pursuant to this Deed, together in each case with interest at the Default Rate accruing from the date falling 3 Business Days after the date of demand until the date of actual receipt, before or after any relevant judgment, and as a separate and independent obligation agrees to keep the Mortgagee fully and effectually indemnified from and against all actions, losses, claims, proceedings, costs, demands and liabilities which the Mortgagee may suffer or incur under or in connection with the Vessel and the Assigned Property unless as a result of the gross negligence or wilful misconduct of the Mortgagee (or an agent, employee or Delegate of the Mortgagee).

- 8.5 No failure to exercise, nor any delay in exercising, on the part of the Mortgagee, any right or remedy under Clause 7 or otherwise as mortgagee of the Vessel shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.
- 8.6 The Mortgagee may at any time and from time to time delegate to any person all or any of its rights, powers, discretions and remedies pursuant to the Finance Documents on such terms as the Mortgagee may consider appropriate (including the power to sub-delegate).
- 8.7 Every right, power, discretion and remedy conferred on the Mortgagee under or pursuant to the Finance Documents shall be cumulative and in addition to every other right, power, discretion or remedy to which the Mortgagee may at any time be entitled by law or in equity. The Mortgagee may exercise each of its rights, powers, discretions and remedies as often and in such order as it deems appropriate.
- 8.8 Neither the Mortgagee nor any agent or employee of the Mortgagee shall be liable for any losses, default or omission which may be incurred in or about the exercise of any of the rights, powers, discretions or remedies of the Mortgagee under or

pursuant to the Mortgage or this Deed, nor liable as mortgagee in possession for any loss on realisation or for any neglect or default of any nature for which a mortgagee in possession might otherwise be liable unless as a result of the Mortgagee's (or any agent, employee or Delegate of the Mortgagee) gross negligence or wilful misconduct.

- 8.9 The Owner shall remain liable to perform all the obligations assumed by it in relation to the Assigned Property and the Mortgagee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Owner to perform its obligations in respect thereof.
- 8.10 The Owner shall not do or omit to do or cause anything to be done or omitted which may adversely affect the rights and interest of the Mortgagee under and pursuant to this Deed.
- 8.11 The Encumbrance created by Clause 4.1, and the rights of the Mortgagee under the Mortgage and 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 Mortgagee.
- 8.12 The Owner will, within 3 Business Days of the Mortgagee's written demand, pay the Mortgagee (for the account of the Finance Parties) the amount of all costs and expenses (including legal fees and Value Added Tax or any similar or replacement tax if applicable) reasonably and properly incurred by the Finance Parties or any of them in connection with:
  - 8.12.1 the negotiation, preparation, printing, execution, perfection and registration of the Mortgage and this Deed;
  - 8.12.2 any amendment, addendum, supplement or waiver to the Mortgage and/or this Deed (whether or not completed); and
  - 8.12.3 any other document which may at any time be required by the Mortgagee, acting reasonably, to give effect to the Mortgage and/or this Deed or which the Mortgagee is entitled to call for or obtain under this Deed.

**9 Receiver**

- 9.1 At any time after the occurrence and during the continuation of an Event of Default the Mortgagee may (but shall not be obliged to) appoint any person to be Receiver and/or Delegate in respect of the Vessel and/or any of the Assigned Property.
- 9.2 The appointment of a Receiver and/or Delegate by the Mortgagee may be made in writing under the hand of any authorised signatory of the Mortgagee.
- 9.3 The Mortgagee shall have the power to authorise any joint Receiver and/or Delegate to exercise any or all of his powers independently of any other joint Receiver and/or Delegate.
- 9.4 The Mortgagee may at any time and from time to time remove any Receiver and/or Delegate from office and appoint a replacement.
- 9.5 The Mortgagee shall have the power from time to time to fix the remuneration of any Receiver and/or Delegate on the basis of charging from time to time adopted by him or his firm and any Receiver and/or Delegate shall not be limited to any maximum amount or rate specified by law.
- 9.6 Any Receiver and/or Delegate appointed pursuant to this Clause shall be the agent of the Owner and the Owner shall be solely responsible for his acts and defaults and for the payment of his remuneration.
- 9.7 Any Receiver and/or Delegate appointed pursuant to this Clause shall have all the powers provided for in Schedule 1 of the Insolvency Act 1986 without restriction, and in particular without the restrictions contained in Section 103 of the Law of Property Act 1925 or any other statutory or other restriction which the Mortgagee may consider analogous under the laws of any other jurisdiction.
- 9.8 Without limitation, any Receiver and/or Delegate shall have power on behalf of the Owner (and at the Owner's expense) to do or omit to do anything which the Owner could do or omit to do in relation to the Vessel or any of the Assigned Property and may exercise all or any of the rights, powers, discretions and remedies conferred on the Mortgagee by the Finance Documents or at law.



- 9.9 No Receiver and/or Delegate shall be liable as mortgagee in possession to account or be liable for any loss on realisation of, or any default of any nature in connection with, the Vessel or any of the Assigned Property or the exercise of any of the rights, powers, discretions and remedies vested in the Receiver and/or Delegate by virtue of the Finance Documents or at law.

## **10 Application of Moneys**

All amounts received by the Mortgagee arising from the exercise by the Mortgagee of its rights, powers, discretions and remedies under or pursuant to the Mortgage and this Deed (including, without limitation, all amounts received by the Mortgagee in connection with the taking possession and/or sale of the Vessel, any chartering or other use of the Vessel by the Mortgagee, and any claims for damages or claims on any insurance received by the Mortgagee while in possession of or while chartering or using the Vessel) shall, unless otherwise agreed by the Mortgagee or otherwise expressly provided in the Loan Agreement, be applied by the Mortgagee in or towards satisfaction, or by way of retention on account, of the Indebtedness, in accordance with the provisions of clause 17.8 of the Loan Agreement.

## **11 Power of Attorney**

- 11.1 The Owner by way of security irrevocably appoints the Mortgagee and any Receiver and/or Delegate appointed by the Mortgagee severally to be its attorney (with unlimited power of substitution and delegation) with power (in the name of the Owner or otherwise) to do all acts which the Owner could do in connection with the Vessel or the Assigned Property including, without limitation, to execute and deliver a bill of sale transferring title in the Vessel to a third party and to give a good receipt for any purchase price.
- 11.2 The Mortgagee agrees that it will not exercise any of its powers as attorney of the Owner unless an Event of Default has occurred and is continuing PROVIDED THAT the Mortgagee shall be able to exercise any of its powers as attorney of the Owner if a Default has occurred and remains in existence and the exercise of such powers by the Mortgagee is necessary to perfect or protect the security intended to be created by the Mortgage and this Deed, the priority, ranking or enforceability of such security, or is necessary to protect the assets, the value of the assets or the continued operation of the assets that are the subject of the

security intended to be created by the Mortgage and this Deed. The exercise of any such powers as attorney of the Owner by the Mortgagee shall not put any person dealing with the Mortgagee on enquiry as to whether an Event of Default or a Default (as the case may be) has occurred and any such person shall not be affected by notice that no Event of Default or Default (as the case may be) has in fact occurred.

- 11.3 The exercise by the Mortgagee or by any Receiver and/or Delegate of any of their powers as attorney of the Owner shall be conclusive evidence of their right to do so.

## **12 Partial Invalidity**

If, at any time, any provision of the Mortgage or this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## **13 Further Assurance**

The Owner agrees that from time to time on the written request of the Mortgagee it will promptly execute and deliver to the Mortgagee all further documents which the Mortgagee may reasonably require for the purpose of perfecting or protecting the security intended to be created by the Mortgage and this Deed.

## **14 Waiver of Rights as Surety**

- 14.1 The rights of the Mortgagee under the Mortgage and/or this Deed, the security constituted by the Mortgage and/or this Deed and the warranties, covenants and obligations of the Owner contained in the Mortgage and/or this Deed shall not in any way be discharged, impaired or otherwise affected by:

14.1.1 any forbearance (whether as to payment or otherwise) or any time or other indulgence granted to any of the other Security Parties under or in connection with any of the Finance Documents;

14.1.2 any amendment, variation, novation, accession to or replacement of any of the other Finance Documents;

14.1.3 any failure of any of the Finance Documents to be legal, valid, binding and enforceable in relation to any of the other Security Parties for any reason;

14.1.4 the winding-up or dissolution of any of the other Security Parties;

14.1.5 the release (whether in whole or in part) of, or the entering into of any compromise or composition with, any of the other Security Parties; or

14.1.6 any other act, omission, thing or circumstance which would or might, but for this provision, operate to discharge, impair or otherwise affect the same.

14.2 Until the Indebtedness has been unconditionally and irrevocably paid and discharged in full, the Owner shall not by virtue of any payment made under this Deed or under the Mortgage on account of the Indebtedness or by virtue of any enforcement by the Mortgagee of its rights under, or the security constituted by, the Mortgage and/or this Deed or by virtue of any relationship between or transaction involving, the Owner and any of the other Security Parties:

14.2.1 exercise any rights of subrogation in relation to any rights, security or moneys held or received or receivable by the Mortgagee or any other person; or

14.2.2 exercise any right of contribution from any of the other Security Parties under any of the Finance Documents; or

14.2.3 exercise any right of set-off or counterclaim against any of the other Security Parties; or

14.2.4 receive, claim or have the benefit of any payment, distribution, security or indemnity from any of the other Security Parties; or

14.2.5 unless so directed by the Mortgagee (when the Owner will prove in accordance with such directions), claim as a creditor of any of the other Security Parties in competition with the Mortgagee

and the Owner shall hold in trust for the Finance Parties and forthwith pay or transfer (as appropriate) to the Mortgagee any such payment (including an amount

equal to any such set-off), distribution or benefit of such security, indemnity or claim in fact received by it.

## **15 Miscellaneous**

- 15.1 In the event of there being any conflict between this Deed and the Loan Agreement, the Loan Agreement shall prevail.
- 15.2 All the covenants and agreements of the Owner in this Deed shall bind the Owner and its successors and permitted assignees and shall inure to the benefit of the Finance Parties and their respective successors, transferees and assignees.
- 15.3 The representations and warranties on the part of the Owner contained in this Deed shall survive the execution of the Mortgage and this Deed and the registration of the Mortgage.
- 15.4 The rights of the Mortgagee under the Mortgage and this Deed shall not be affected by any change in the constitution of the Owner or by the liquidation, bankruptcy or insolvency of the Owner.
- 15.5 No variation or amendment of this Deed shall be valid unless in writing and signed on behalf of the Owner and the Mortgagee.
- 15.6 Other than the Finance Parties, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

## **16 Discharge of Security**

- 16.1 Following the expiry of the Facility Period the Mortgagee will, at the cost of and on the request of the Owner, execute and deliver to the Owner a discharge of the Mortgage.
- 16.2 Where any discharge (whether in respect of the obligations of the Owner, any security for those obligations or otherwise) or arrangement is made in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored for any reason, the liability of the Owner under the Mortgage will continue or be reinstated as if the discharge or arrangement has not occurred.

**17 Notices**

The provisions of clause 30 of the Loan Agreement shall apply (*mutatis mutandis*) to this Deed as if it were set out in full with references to this Deed substituted for references to the Loan Agreement and with references to the Owner substituted for references to the Borrower.

**18 Counterparts**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

**19 Law and Jurisdiction**

- 19.1 This Deed and any non-contractual obligations arising from or in connection with it shall in all respects be governed by and interpreted in accordance with English law.
- 19.2 For the exclusive benefit of the Mortgagee, the Owner irrevocably agrees that the courts of England are to have jurisdiction to settle any dispute (a) arising from or in connection with this Deed or (b) relating to any non-contractual obligations arising from or in connection with this Deed and that any proceedings may be brought in those courts.
- 19.3 Nothing contained in this Clause shall limit the right of the Mortgagee to commence any proceedings against the Owner in any other court of competent jurisdiction nor shall the commencement of any proceedings against the Owner in one or more jurisdictions preclude the commencement of any proceedings in any other jurisdiction, whether concurrently or not.
- 19.4 The Mortgagee shall in addition have the right to arrest and take action against the Vessel and/or any other vessel for the time being belonging to the Owner wherever it or they may be, for which purpose the Owner irrevocably agrees that any claim form, notice, judgment or other legal process may be served on the Owner in the manner set out in Clause 19.6 or on the Vessel or on the master (or anyone acting as the master) of the Vessel or of the vessel against which the action is taken, which shall be deemed good service on the Owner, the Vessel or such other vessel for all purposes.

19.5 The Owner irrevocably waives any objection which it may now or in the future have to the laying of the venue of any proceedings in any court referred to in this Clause and any claim that those proceedings have been brought in an inconvenient or inappropriate forum, and irrevocably agrees that a judgment in any proceedings commenced in any such court shall be conclusive and binding on it and may be enforced in the courts of any other jurisdiction.

19.6 Without prejudice to any other mode of service allowed under any relevant law, the Owner:

19.6.1 irrevocably appoints Gateley LLP of 111 Edmund Street, Birmingham, B3 2HJ, England as its agent for service of process in relation to any proceedings before the English courts; and

19.6.2 agrees that failure by a process agent to notify the Owner of the process will not invalidate the proceedings concerned.

IN WITNESS of which this Deed has been duly executed and delivered the day and year first before written.

SIGNED and DELIVERED )  
as a DEED )  
by ROOSALKA SHIPPING LIMITED )  
acting by JAY KUMAR DAGA )  
its duly authorised DIRECTOR )  
in the presence of: *GR* )  
GRACE RIVERA )  
C/O DP&Z ENERGY AND MARINE )  
DUBAI, UAE )



SIGNED and DELIVERED )  
as a DEED )  
by STANDARD CHARTERED BANK )  
acting by )  
its duly authorised )  
in the presence of: )

19.5 The Owner irrevocably waives any objection which it may now or in the future have to the laying of the venue of any proceedings in any court referred to in this Clause and any claim that those proceedings have been brought in an inconvenient or inappropriate forum, and irrevocably agrees that a judgment in any proceedings commenced in any such court shall be conclusive and binding on it and may be enforced in the courts of any other jurisdiction.

19.6 Without prejudice to any other mode of service allowed under any relevant law, the Owner:

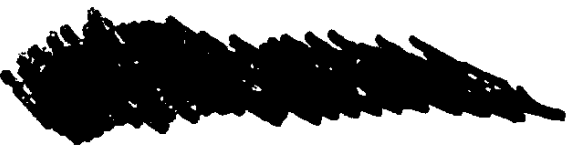
19.6.1 irrevocably appoints Gateley LLP of 111 Edmund Street, Birmingham, B3 2HJ, England as its agent for service of process in relation to any proceedings before the English courts; and

19.6.2 agrees that failure by a process agent to notify the Owner of the process will not invalidate the proceedings concerned.

**IN WITNESS** of which this Deed has been duly executed and delivered the day and year first before written.

**SIGNED and DELIVERED** )  
as a **DEED** )  
by **ROOSALKA SHIPPING LIMITED** )  
acting by )  
its duly authorised )  
in the presence of: )

**SIGNED and DELIVERED** )  
as a **DEED** )  
by **STANDARD CHARTERED BANK** )  
acting by )  
its duly authorised )  
in the presence of: )

  
Paul Thompson  
Director, Agency UK/Europe  
Standard Chartered Bank

Stephanie Saunders  
Associate  
Stephenson Harwood LLP  
1 Finsbury Circus  
London EC2M 7SH