

# MR01

## Particulars of a charge

13/002108



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. delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery.

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

THURSDAY



\*S37H8Y57\*

SCT

08/05/2014

#4

COMPANIES HOUSE

### 1 Company details

Company number S C 4 6 4 1 3 5  
Company name in full CALEDONIAN TOWAGE LIMITED

				9
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 d 3 0 m 0 4 y 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 LOMBARD NORTH CENTRAL PUBLIC LIMITED COMPANY

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.

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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 UK registered vessel "Keverne" A 2005 32.5 metre Kanagawa Dockyard Tug (Official Number: 913987) with its port of registration at Rochester

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

6

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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**Trustee statement<sup>1</sup>**

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

☐

<sup>1</sup>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 

X

For and on behalf of Broderick Ltd

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 ERA/NSR/LOM11.6

Company name BRODIES LLP

Address 23 CARDEN PLACE

Post town ABERDEEN

County/Region

Postcode A B 1 0 1 U Q

Country UNITED KINGDOM

DX DX AB10

Telephone 01224 392176



### 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: 464135

Charge code: SC46 4135 0009

The Registrar of Companies for Scotland hereby certifies that a charge dated 30th April 2014 and created by CALEDONIAN TOWAGE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th May 2014.

Given at Companies House, Edinburgh on 12th May 2014



**Companies House**



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

## Deed of Covenants

(for use where the Customer and the Owner (if different) are both special purpose vehicles)



**THIS IS AN IMPORTANT DEED. YOU SHOULD TAKE LEGAL ADVICE BEFORE SIGNING.**

The following terms have the following meanings:

Date: 30 April 2014

### Owner

Name: Caledonian Towage Limited Registration number: SC464135

Jurisdiction of Incorporation: Scotland

Address: 13 Henderson Road, Inverness, United Kingdom, IV1 1SN

Address for Service: 13 Henderson Road, Inverness, United Kingdom, IV1 1SN

### Lombard

Lombard North Central Public Limited Company

### Customer

Name: Caledonian Towage Limited Registration number: SC464135

Jurisdiction of incorporation: Scotland

Address: 13 Henderson Road, Inverness, United Kingdom, IV1 1SN

### Vessel

Name: "Keverne" A 2005 32.5 metre Kanagawa Dockyard Tug Official Number: 913987

Port of Registration: Rochester

Classification (if any): LR 100A1 LMC UMS

Classification Society: Lloyds Register

Location of Vessel when not in use: Invergordon

Major Casualty Sum: £250,000.00

Permitted Waters: EU countries, Channel Islands, Norway, Turkey, North America and International waters between these countries.

Chartering is Permitted? Yes – subject always to the charter arrangement being a Permitted Charter.

to the extent they are within the territorial limits imposed by the Insurances.

I certify that, save for material redacted pursuant to s.859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

Date 6 May 2014

Signed [Signature] (1815241 00011660)

Shoosmiths LLP  
Apex Plaza, Forbury Road  
Reading RG1 1SH

## **1 Definitions and interpretation**

1.1 In this Deed the following words will have the meanings given alongside them:

- |        |  |   |
|--------|--|---|
| 1.1.1  | <b>Customer's Obligations</b>  | has the meaning given to it in clause 2 ( <i>Customer's Obligations</i> );  |
| 1.1.2  | <b>Charter Guarantee</b>   | any guarantee, bond, letter of credit or any other form of security supporting a <b>Charter</b> ;   |
| 1.1.3  | <b>Insurances</b>  | all policies or contracts of insurance relating to the <b>Vessel</b> ;  |
| 1.1.4  | <b>Interest</b>  | has the meaning given to it in clause 2.1;  |
| 1.1.5  | <b>Loan Agreement</b>  | the loan agreement entered into between the <b>Customer</b> and <b>Lombard</b> in relation to the financing of the <b>Vessel</b> ;  |
| 1.1.6  | <b>Maintenance Contracts</b>   | all contracts for the maintenance of the <b>Vessel</b> to which the <b>Owner</b> is a party;  |
| 1.1.7  | <b>Major Casualty</b>  | has the meaning given to it in clause 5.2.2;  |
| 1.1.8  | <b>Permitted Disposal</b>  | any sale, lease, licence, transfer or other disposal which is on arm's length terms:<br><br>(a) of cash made by the <b>Owner</b> in the ordinary course of trading;<br><br>(b) of assets (other than the <b>Vessel</b> ) in exchange for other assets comparable or superior as to type, value and quality;<br><br>(c) of obsolete or redundant assets; or<br><br>(d) arising as a result of any <b>Permitted Encumbrance</b> ; |
| 1.1.9  | <b>Protection and Indemnity Risks</b>  | the usual risks covered by a protection and indemnity association, liability to third parties and pollution liability and, to the extent not covered under the hull and machinery policies, collision;  |
| 1.1.10 | <b>Requisition Compensation</b>  | all sums payable by reason of a <b>Requisition</b> of the <b>Vessel</b> ;   |
| 1.1.11 | <b>Security Assets</b>   | the <b>Vessel</b> and all assets which from time to time are subject to the security created or expressed to be created by this Deed;   |
| 1.1.12 | <b>Security Documents</b>  | the agreements documenting the <b>Security</b> and any other guarantee, indemnity, assignation, assignment or other form of security which <b>Lombard</b> holds as security for the <b>Customer's Obligations</b> ;   |
| 1.1.13 | <b>Security Period</b>   | from the date of this Deed for so long as any amount is outstanding from an <b>Obligor</b> to <b>Lombard</b> in connection with the <b>Loan Agreement</b> or <b>Lombard</b> is under any commitment to lend to the <b>Customer</b> ;  |
| 1.1.14 | <b>Statutory Mortgage</b>  | has the meaning given to it in clause 3 ( <i>Charge</i> ); and  |
| 1.1.15 | <b>Warranties</b>  | any agreement under which warranties are provided in favour of the <b>Owner</b> in relation to the <b>Vessel</b> .  |
| 1.2    | Capitalised terms defined in the <b>Loan Agreement</b> have the same meaning in this Deed unless expressly defined in this Deed. |   |

- 1.3 The provisions of clauses 1.2 – 1.4 of the Marine Loan Terms forming part of the Loan Agreement apply to this Deed as though they were set out in full in this Deed, except that references therein to the Agreement will be construed as references to this Deed.
- 1.4 Unless a contrary indication appears:
- 1.4.1 a reference in this Deed to "Customer's Obligations" where the Customer is more than one person, includes such person's joint, several and independent liabilities and references to "Customer" are to them together and separately;
- 1.4.2 references in this Deed to the "Vessel" include (without limitation) any share or interest in that Vessel, its machinery, engines, boats and tenders and the Vessel's current and future documents, certificates, licences, logs, manuals and records and any or all other items over which this Deed creates security;
- 1.4.3 a reference in the Statutory Mortgage to:
- (a) "interest" includes interest covenanted to be paid under this Deed;
  - (b) "principal" means all monies other than interest for the time being included in the Customer's Obligations; and
  - (c) the expression "the sums for the time being owing on this security" and any expression similar to it means the whole of the Customer's Obligations.
- 1.5 It is intended that this document take effect as a deed notwithstanding that a party may only execute it under hand.
- 2 Customer's Obligations**
- The Owner will pay Lombard on demand all the Customer's liabilities to Lombard (present, future, actual or contingent and whether incurred alone or jointly with another) including (without limitation):
- 2.1 interest at the rate charged by Lombard under the relevant finance document between the Owner and Lombard, calculated both before and after demand or judgment or decree on a daily basis ("Interest"); and
- 2.2 any expenses, costs or administration charges, Lombard or a receiver incurs (on a full indemnity basis and with Interest from the date of payment) in connection with the Vessel or taking, perfecting, protecting or enforcing this Deed or exercising any power under it,
- (the "Customer's Obligations").
- 2.3 Interest due and unpaid will be compounded monthly on the days selected by Lombard but will remain immediately due and payable.
- 2.4 The Owner's obligation to make all payments under this Deed is absolute and unconditional and each payment must be made in full, without set-off or deduction, or withholding unless required by law in which event the Owner shall pay to Lombard such additional amount as is necessary to ensure that the net amount received by Lombard is equal to the amount Lombard would have received in the absence of any requirement to make any such set-off, deduction or withholding.
- 3 Charge**
- 3.1 The Owner has given to Lombard a statutory mortgage over all of the Vessel (the "Statutory Mortgage"). In addition, the Owner, as a continuing security for the payment on demand of the Customer's Obligations and with full title guarantee:
- 3.1.1 mortgages the Vessel to Lombard;
- 3.1.2 assigns to Lombard absolutely all of its right, title, benefit and interest, now or at any later time, in and to:
- (a) all Charters, Earnings and any Charter Guarantee;
  - (b) all Insurances and proceeds of the Insurances;
  - (c) all Warranties and Maintenance Contracts; and



(d) all **Requisition Compensation**; and

3.1.3 charges to **Lombard** all of its current and future tackle, spare parts, fuel and stores, whether on board or ashore.

3.2 The assignment under clause 3.1.2 above is subject to a proviso for reassignment on irrevocable discharge in full of the **Customer's Obligations**.

3.3 If any property expressed to be assigned in this clause 3 cannot be assigned, the **Owner** shall hold that property on trust for **Lombard** and the assignment shall take effect as an assignment of any damages, compensation, remuneration, profit, rent or income which the **Owner** may derive from that right or be entitled to in respect of that right.

#### **4 Perfection of security**

The **Owner** shall promptly on request by **Lombard**, give notice of assignment in form and substance satisfactory to **Lombard**:

4.1 to each party with whom the **Owner** has entered into a **Charter, Charter Guarantee, Warranty or Maintenance Contract** or any other agreement under which **Earnings** are paid; and

4.2 to each insurer with whom the **Owner** holds the **Insurances**,

and shall use its reasonable endeavours to procure that each addressee of such notice will promptly provide an acknowledgement to **Lombard** in form and substance satisfactory to **Lombard**.

#### **5 Receipts**

5.1 The **Earnings** and any sums recoverable under any **Charter Guarantee or Maintenance Contract** shall be payable to the **Owner** until **Lombard** directs to the contrary following the occurrence of an **Event of Default**, on and after which direction:

5.1.1 the **Owner** shall immediately pay such amounts recovered to **Lombard** or as it may direct, and **Lombard** may instruct all persons from whom those sums are due to do the same; and

5.1.2 any such sums then held by the **Owner's** brokers, bankers or other agents or representatives shall be deemed to have been received by, and to be held by them, on trust for **Lombard**.

5.2 Before an **Event of Default** occurs, sums recovered in respect of the **Insurances** shall be payable as follows:

5.2.1 any sum recovered in respect of a **Total Loss** under the **Insurances** against fire and the usual marine risks and war risks shall be paid to **Lombard**;

5.2.2 any sum recovered under the **Insurances** against fire and the usual marine risks and war risks in respect of a casualty to the Vessel in respect of which the claim or the aggregate of the claims against all insurers (before adjustment for any relevant franchise or deductible) exceeds the **Major Casualty Sum** (a "**Major Casualty**") shall be paid to **Lombard** but so that:

(a) the sum received by **Lombard** shall be paid over to the **Owner** upon the **Owner** providing evidence satisfactory to **Lombard** that all loss and damage resulting from the casualty has been properly made good and repaired and that liabilities connected with the casualty have been paid by the **Owner**; and

(b) the insurers with whom the fire and the usual marine risks and war risks insurances are effected may in the case of any **Major Casualty**, and with the prior written consent of **Lombard**, make payment on account of the repairs which are being carried out;

5.2.3 any other sum recovered under the **Insurances** against fire and the usual marine risks and war risks shall be paid to the **Owner** which shall apply it in making good the loss and fully repairing all damage in respect of which that insurance money was received; and

5.2.4 any sum recovered under the **Insurances** against **Protection and Indemnity Risks** shall be paid directly to the person to whom the **Owner** is liable or to the **Owner** in reimbursement of moneys expended by it to discharge that liability.

5.3 On or after the occurrence of an **Event of Default**, any sums recovered under the **Insurances** shall be payable to **Lombard**.

- 5.4 Before an **Event of Default** occurs, sums recovered in respect of the **Warranties** shall be payable as follows:
- 5.4.1 sums being in aggregate in excess of the **Warranty Sum** shall be paid to **Lombard** or as it may direct; and
- 5.4.2 sums being in aggregate less than the **Warranty Sum** shall be paid to the **Owner** which shall apply them in remedying any defect in respect of which that sum was received.
- 5.5 On or after the occurrence of an **Event of Default**, any sums recovered in respect of the **Warranties** shall be payable to **Lombard**.
- 6 Representations and warranties**
- 6.1 The **Owner** represents and warrants to **Lombard** on the date it signs this **Deed** that:
- 6.1.1 it is a limited liability company or a limited liability partnership duly incorporated or established under the laws of the **Jurisdiction of Incorporation** and it has the power to carry on its business as presently conducted and to own its property and other assets;
- 6.1.2 the obligations expressed to be assumed by it in each **Finance Document** are legal, valid, binding and enforceable obligations;
- 6.1.3 it has power to execute and perform its obligations under the **Finance Documents**;
- 6.1.4 the execution and performance by it of the **Finance Documents** to which it is a party does not:
- (a) contravene any applicable law or regulation;
  - (b) conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which it is a party or any licence or other authorisation to which it is subject or by which it or any of its property is bound unless such conflict, breach or default could not reasonably be expected to have a **Material Adverse Effect**; or
  - (c) contravene or conflict with its memorandum, articles of association or any other constitutional documents relating to it;
- 6.1.5 it has and will maintain all necessary **Authorisations** to perform its obligations under the **Finance Documents**;
- 6.1.6 any **Authorisation** required or desirable to make any **Finance Document** to which it is a party admissible in evidence under the laws of England and Wales and/or Scotland has been obtained or effected and is in full force and effect;
- 6.1.7 the choice of governing law of any **Finance Document** to which it is a party will be recognised and applied by the courts of England and Wales and/or the courts of Scotland;
- 6.1.8 any judgment obtained in relation to any **Finance Document** to which it is a party in the jurisdiction of the governing law of that **Finance Document** will be recognised and applied in the courts of England and Wales and/or the courts of Scotland;
- 6.1.9 any filing, recording or enrolment with any court or other authority of any **Finance Document** to which it is a party necessary under the laws of England and Wales and/or Scotland has been completed;
- 6.1.10 any stamp, registration, notarial or similar **Tax** or fee be paid on or in relation to any **Finance Document** to which it is a party or the transactions contemplated by any **Finance Document** to which it is a party under the laws of any **Relevant Jurisdiction** has been paid;
- 6.1.11 it has not taken any action nor have any steps been taken or legal proceedings been started or to the best of its knowledge threatened in writing against it for:
- (a) winding-up, dissolution or re-organisation; or
  - (b) the enforcement of any **Encumbrance** over its assets; or
  - (c) the appointment of a receiver, administrative receiver, administrator, trustee or similar officer of it or of any of its assets;

- 6.1.12 except as disclosed to **Lombard** in writing before the date of signing this **Deed**, no action, litigation, arbitration or administrative proceeding has been commenced or to the best of its knowledge is pending or threatened against it involving a potential liability exceeding the **Litigation Limit** nor is there subsisting any unsatisfied judgment or award given against it;
- 6.1.13 it has not made any representations or warranties, whether express or implied, in connection with the **Finance Documents** which may increase **Lombard's** obligations or adversely affect **Lombard's** rights;
- 6.1.14 all information supplied by it or by any person on its behalf to **Lombard** was and remains true and complete in all material respects and it is not aware of any material fact or circumstance which has not been disclosed to **Lombard**;
- 6.1.15 the **Vessel** is not subject to any **Encumbrance** other than any **Permitted Encumbrance**;
- 6.1.16 no **Encumbrance** exists over all or any of its assets other than any **Permitted Encumbrance**;
- 6.1.17 it has no **Financial Indebtedness** outstanding other than **Financial Indebtedness** which is a **Permitted Transaction** or **Permitted Financial Indebtedness**;
- 6.1.18 the **Security** has or will have the ranking which it is expressed to have in the **Security** and it is not subject to any prior ranking or *pari passu* ranking **Encumbrance** other than any **Permitted Encumbrance** or as permitted in writing by **Lombard**;
- 6.1.19 it has a good, valid and marketable title to, or valid leases or licences of, and all appropriate **Authorisations** to use, the assets necessary to carry on its business as presently conducted; and
- 6.1.20 it is the sole legal and beneficial owner of the assets over which it purports to grant the **Security** including, without limitation, all the shares in the **Vessel**.
- 6.2 Each of the representations set out above are repeated by the **Owner** on each day of the **Security Period** by reference to the facts and circumstances then existing.
- 7 Information undertakings**
- 7.1 The **Owner** undertakes to:
- 7.1.1 deliver the **Financial Information** relating to it to **Lombard** as soon as the same becomes available (and in any event by the date shown in the **Loan Agreement**);
- 7.1.2 deliver to **Lombard** promptly on request:
- (a) any other financial information relating to the **Owner** that **Lombard** may request; and
  - (b) any information relating to the **Vessel** that **Lombard** may request;
- 7.1.3 provide to **Lombard** promptly on request, a copy of any notice, correspondence or other information sent to its shareholders, members or creditors as a whole;
- 7.1.4 promptly, upon becoming aware of the same, notify **Lombard** of:
- (a) the occurrence of any **Default**;
  - (b) any litigation, arbitration or administrative proceedings commenced against the **Owner** which would result in the potential liability of the **Owner** in relation to all such proceedings in aggregate to exceed the **Litigation Limit**;
  - (c) any event relating to the **Owner** requiring notification to HM Revenue & Customs or any equivalent tax authority in another jurisdiction; and
- 7.1.5 deliver to **Lombard** promptly on request, any information **Lombard** requires from time to time in relation to the **Owner** to enable **Lombard** to comply with its obligations under the prevailing Money Laundering Regulations, save in each case where that information has been supplied to **Lombard** by the **Customer**.

## 8 General undertakings

The Owner will at all times during the **Security Period**, except with the prior written consent of **Lombard**:

- 8.1 obtain and maintain all **Authorisations** required in connection with the **Owner's** business and to comply with all laws and other obligations to which it is subject;
- 8.2 not enter into any amalgamation, demerger, merger, consolidation or corporation reconstruction;
- 8.3 not acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them) or incorporate a company;
- 8.4 not enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any **Joint Venture** or transfer any assets or lend to or guarantee or give an indemnity for or create any **Encumbrance** for the obligations of a **Joint Venture** or maintain the solvency of or provide working capital to any **Joint Venture** (or agree to do any of the foregoing);
- 8.5 not make any substantial change to the general nature of its business from that carried on by it at the date of this **Deed**;
- 8.6 operate as and remain a single purpose company and shall conduct no business nor incur or undertake any duties, obligations or liabilities other than those relating to that purpose;
- 8.7 ensure that at all times any unsecured and unsubordinated claims of **Lombard** under the **Finance Documents** rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors except those creditors whose claims are mandatorily preferred by laws of general application to companies;
- 8.8 not:
  - (a) create or permit to subsist any **Encumbrance** over any of its other assets;
  - (b) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by it;
  - (c) sell, transfer or otherwise dispose of any of its receivables on recourse terms; or
  - (d) enter into any other preferential arrangement having a similar effect, in each case in circumstances where the arrangement or transaction is entered into primarily as a method of raising **Financial Indebtedness** or of financing the acquisition of an asset.

This clause shall not apply to any **Encumbrance** which is a **Permitted Encumbrance**;

- 8.9 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 any other asset. This clause shall not apply to any sale, lease, transfer or other disposal which is a **Permitted Disposal**;
- 8.10 not enter into any transaction with any person except on arm's length terms and for full market value;
- 8.11 not be a creditor in respect of any **Financial Indebtedness** except any deferred payment terms which the **Customer** has given its debtors in the ordinary course of business or as a creditor of any **Guarantor**;
- 8.12 not incur or allow to remain outstanding any guarantee in respect of any obligation of any person. This clause shall not apply to: (a) a **Permitted Transaction**; (b) the corporate guarantee granted by Global Energy (Holdings) Limited (registered number SC329184), the **Customer** and others in favour of Bank of Scotland plc dated 4, 7 and 14 November 2013, as acceded to by the **Customer** pursuant to an accession agreement from Global Energy (Holdings) Limited (registered number SC329184) and the **Customer** to Bank of Scotland plc dated 13 and 18 February 2014; and (c) any subsequent guarantee that is granted by the **Customer** to replace the guarantee referred to at paragraph (b) above, provided always such replacement guarantee is for an amount equal to or less than the amount originally guaranteed.
- 8.13 not: (a) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital); (b) repay or distribute any dividend or share premium reserve; (c) pay any management, advisory or other fee to or to the order of any of its shareholders; nor (d) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so;

- 8.14 not incur or allow to remain outstanding any **Financial Indebtedness**. This clause shall not apply to **Financial Indebtedness** which is a required or incurred under the **Finance Documents** or to **Permitted Financial Indebtedness**;
- 8.15 if a **Default** is continuing or **Lombard** reasonably suspects a **Default** is continuing or may occur, permit **Lombard** and/or accountants or other professional advisers and contractors of **Lombard** free access at all reasonable times and on reasonable notice at the risk and cost of the **Customer** to its premises, assets, books, accounts and records; and
- 8.16 not have any involvement or connection with a **Sanctioned Entity**, whether directly or indirectly, which would result in **Lombard** being unable to comply with all applicable laws and regulations in relation to international sanctions law.
- 9 Vessel undertakings**
- The **Owner** will at all times during the **Security Period**, except with the prior written consent **Lombard**:
- 9.1 register and keep the **Vessel** registered under the **Official Number** at the **Port of Registration**
- 9.2 not change the **Official Number**, **Vessel Name** or identification marks of the **Vessel**
- 9.3 if applicable, maintain the **Vessel's Classification** free of outstanding recommendations and qualifications and inform **Lombard** immediately of any requirement imposed by the **Classification Society** with which the **Owner** is unable to comply;
- 9.4 provide to **Lombard** annually, copies of all class and code information, maintenance records, log books and insurance information relating to the **Vessel**;
- 9.5 submit the **Vessel** for periodic or other surveys to maintain its **Classification** and upon request provide to **Lombard** copies of all certificates and survey reports issued in respect of the **Vessel**;
- 9.6 inform **Lombard** immediately of any requirement imposed by (i) any insurer of the **Vessel** or (ii) an authority vested with the control and supervision of, or have jurisdiction over, the operation of the **Vessel**, with which the **Owner** is unable to comply;
- 9.7 use the **Vessel** in a safe, careful and proper manner and in accordance with the manufacturer's recommendations;
- 9.8 ensure the **Vessel** is operated in accordance with all applicable laws and regulations, not engage in any unlawful trade or allow the **Vessel** to carry a cargo which will expose the **Vessel** to penalty or forfeiture;
- 9.9 comply with the requirements of any international convention and code applicable to the **Vessel** and deliver to **Lombard** a copy of each report, survey, certificate and any other document of compliance: (i) issued to the **Owner** in respect of any such convention or code; or (ii) requested by **Lombard** to evidence such compliance;
- 9.10 pay when due all licence fees, port fees, mooring fees, taxes, fines, charges or other amounts due and relating to the **Vessel** or its use;
- 9.11 immediately inform **Lombard** of any arrest, proceedings, collision or incident affecting the **Vessel**;
- 9.12 not change the **Location of Vessel** from that notified to **Lombard** prior to the date of this Deed;
- 9.13 permit **Lombard** (and its surveyor or other persons appointed by it) at any time to inspect the **Vessel**, its cargo and papers and upon **Lombard's** request deliver to **Lombard** for its inspection all contracts relating to the **Vessel**, its use or its cargo whether on board or not;
- 9.14 permit **Lombard** and its agents or other persons appointed by it to undertake a survey and valuation of the **Vessel** and its technical records;

9.14.1 at the **Customer's** expense:

- (a) twice during the **Security Period**; and
- (b) if the aggregate **Market Value** of the **Vessels** has fallen below the amount that is the **Asset Cover** percentage (%) of the **Balance**;
- (c) at any time after a **Default** has occurred and is continuing; and

9.14.2 at **Lombard's** expense at any time **Lombard** deems appropriate to protect its security.

9.14.3 For the purposes of clause 9.14.1:

- (a) **Balance** means the outstanding balance due to **Lombard** at the date of calculation in respect of the **Loan Agreement** together with the outstanding balance due to **Lombard** at the date of calculation in respect of the following loan agreements:

(i) the loan agreement (including the **Marine Loan Terms**, the addendum attached thereto entitled "**Terms Applicable**" and appendix 2 to the loan agreement entitled "**Conditions Precedent**") dated on or about the date of the **Agreement** made between the **Customer** and **Lombard** in respect of one 2004 Kanagawa Dockyard Tug bearing the name "**Multratug 5**" with official number 913707;

(ii) the loan agreement (including the **Marine Loan Terms**, the addendum attached thereto entitled "**Terms Applicable**" and appendix 2 to the loan agreement entitled "**Conditions Precedent**") dated on or about the date of the **Agreement** made between the **Customer** and **Lombard** in respect of one 2009 Kanagawa Dockyard Tug bearing the name "**Kestrel**" with official number 10558;

(iii) the loan agreement (including the **Marine Loan Terms**, the addendum attached thereto entitled "**Terms Applicable**" and appendix 2 to the loan agreement entitled "**Conditions Precedent**") dated on or about the date of the **Agreement** made between the **Customer** and **Lombard** in respect of one 2006 Kanagawa Dockyard Tug bearing the name "**Kintore**" with official number 913104.

- (b) **Vessels** means, the **Vessel** together with the vessels known as **Multratug 5**, **Kestrel** and **Kintore**.

9.15 not take the **Vessel** outside the **Permitted Waters** without **Lombard's** prior written consent;

9.16 not allow the **Vessel** to be used in any part of the world where there are hostilities (whether war is declared or not) or enter a zone which is declared a war zone by any government or by the **Vessel's** insurers;

9.17 keep the **Vessel** in good and seaworthy condition and carry out repairs and replace parts as appropriate, in accordance with the manufacturer's recommendations and not, without **Lombard's** consent, make any alterations to the **Vessel**;

9.18 give **Lombard** prior written notice of any proposed dry docking of the **Vessel** allowing **Lombard**, its agents or representatives to be present if it requires;

9.19 upon **Lombard's** request provide satisfactory evidence that the wages, allotments, insurance and pension contributions of the master and crew of the **Vessel** are being paid in accordance with the articles of agreement relating to the **Vessel** and the relevant regulations and that all deductions from the remuneration of the master and crew in respect of any tax liability (including **PAYE**) and national insurance contributions are being made and accounted for to the relevant authority and that the master has no claim for disbursements other than those properly incurred by him in the ordinary trading of the **Vessel** on the voyage then in progress;

9.20 not **Charter** or part with possession of the **Vessel** other than (a) a **Permitted Charter** (if chartering is specified in this **Deed** as permitted) and (b) any parting with possession of the **Vessel** for the purpose of works being completed to it provided that the costs of completing such work do not exceed 15% of the **Market Value** of the **Vessel** (as set out in the most recent valuation);

9.21 perform and discharge all duties, liabilities or obligations imposed on the **Owner** under any **Charter**, bill of lading or other contract relating to the **Vessel**;

9.22 not use or allow the **Vessel** to be used for residential purposes (except for crew);

9.23 if required by **Lombard**, deposit with **Lombard** all deeds and documents of title, leases or **Charters** relating to the **Security Assets**;

- 9.24 not permit or create or allow to subsist any **Encumbrance** over the **Security Assets** other than a **Permitted Encumbrance**;
- 9.25 not assign or purport to assign any **Earnings** or **Insurances** in relation to the **Vessel** other than under the **Finance Documents**;
- 9.26 not amend or end, or grant a waiver under, any contract mortgaged, charged, assigned or held on trust under this **Deed** (other than a **Permitted Charter** of a pleasure vessel if chartering is specified in this **Deed** as permitted);
- 9.27 promptly, upon becoming aware of the same, notify **Lombard** of any **Encumbrance** over the **Vessel**;
- 9.28 if **Lombard** so requests, keep attached to the **Vessel** in a prominent position a metal plate stating: "This vessel is mortgaged to **Lombard**";
- 9.29 not dispose of the **Vessel** other than by way of a **Permitted Disposal**;
- 9.30 not remove or permit the removal of any part of the **Vessel** or any equipment belonging to the **Vessel** nor make or permit to be made any alteration in the structure, type or speed of the **Vessel** (unless such removal or alteration is required by law or by the **Classification Society**) without **Lombard's** prior written consent;
- 9.31 promptly inform **Lombard** of any **Event of Default** or of any casualty, damage or **Total Loss** or any condition, event or circumstance which with the lapse of time might constitute an **Event of Default**;
- 9.32 comply with any other reasonable requirements which **Lombard** notifies to the **Owner**;
- 9.33 retain a copy of any "VAT Paid" certificate issued by the relevant tax authorities on board the **Vessel**; and
- 9.34 if VAT has not been paid in respect of the purchase of the **Vessel** by the **Owner**, use its reasonable endeavours to procure that VAT does not become payable in respect of the **Vessel** but if VAT does become payable, promptly pay such tax authority all amounts claimed.

## **10 Insurance undertakings**

The **Owner** will at all times during the **Security Period**:

- 10.1 keep the **Vessel** insured to **Lombard's** reasonable satisfaction against (i) fire and marine risks (including hull and machinery and excess risk) for an amount not less than 120% of the amount of the **Loan** (ii) war risks and terrorism (including confiscation) for an amount acceptable to **Lombard** (iii) **Protection and Indemnity Risks** for an amount acceptable to **Lombard** with insurers approved by **Lombard** on terms acceptable to **Lombard**. In default, **Lombard** may arrange the aforementioned insurances at the **Owner's** expense;
- 10.2 pay all insurance premiums promptly and at **Lombard's** request provide copies of renewal receipts;
- 10.3 procure that the brokers / insurers of the **Insurances** each will provide a letter of undertaking in the form **Lombard** requires and in the case of the provider of insurance for **Protection and Indemnity Risks**, a duplicate of the certificate of entry to the association;
- 10.4 at **Lombard's** request, procure that any entity insured in respect of any of the **Insurances** other than the **Owner** enters into a subordination agreement in form and substance satisfactory to **Lombard**;
- 10.5 not do or permit any act which will invalidate the **Insurances**;
- 10.6 not cancel or amend the **Insurances** without **Lombard's** prior written consent;
- 10.7 not settle, compromise or abandon any claim under any **Insurance** for **Total Loss** or a **Major Casualty**;
- 10.8 ensure any guarantees required by the protection and indemnity association are issued promptly and remain in full force;
- 10.9 ensure that **Lombard** is named on the **Insurances** (a) as assignee and first loss payee in relation to the insurances referred to in clauses 10.1.1(i) and 10.1.1(ii) and (b) as first loss payee only in relation to the insurances referred to in clause 10.1.1(iii);
- 10.10 procure that all amounts payable by insurers are paid in accordance with the loss payable clauses in the relevant policy of insurance;

- 10.11 deposit with Lombard all Insurances and related documents (or copies where Lombard agrees);
- 10.12 if requested by Lombard, provide Lombard with such information and documentation as it requires to enable it to obtain an insurance report: (i) annually; and (ii) following any renewal of any of the Insurances or any change to any of their terms (the cost of such report is to be paid by the Owner in circumstances where there is a Default only and in all other circumstances, the costs of such report is to be paid by Lombard); and
- 10.13 Lombard will at all times during the Security Period insure the Vessel against mortgagee indemnity insurance in respect of the Vessel and its use for an amount no greater than 120% of the amount of the Loan outstanding from time to time. The Owner shall, at Lombard's request, pay all insurance premiums which Lombard pays for the aforementioned mortgagee indemnity insurance within 5 Business Days of the date of receipt of an invoice from Lombard in respect of such mortgagee indemnity insurance.

## **11 Requisition**

- 11.1 The Owner will remain fully liable to Lombard for all its obligations under this Deed should there be a Requisition of the Vessel (other than those with which it is physically unable to comply owing to the requisition) unless and until Lombard is satisfied (acting reasonably) that the requisition authority has assumed the Owner's obligations to Lombard, and Lombard has so confirmed to the Owner.
- 11.2 The Owner agrees that the Requisition Compensation will be paid to Lombard by way of prepayment of the Customer's Obligations if Lombard requests.
- 11.3 When any Requisition ends the Owner will immediately and fully comply with all of its obligations under this Deed as soon as reasonably practicable.

## **12 Indemnity to Lombard**

- 12.1 The Owner will indemnify Lombard against any liability or loss (including reasonable legal costs) arising from any claims as a result of (a) the Owner or Lombard entering into this Deed; (b) the Owner failing to perform any of its obligations under this Deed, (c) Lombard investigating any event that it believes to be a default under this Deed, or (d) Lombard relying on any notice, request or instruction delivered under this Deed. The Owner will pay Lombard within five Business Days of demand by Lombard.
- 12.2 The Owner shall indemnify Lombard against any Taxation or similar charge imposed by any governmental or taxing authority which arises in relation to the Vessel, this Deed or any payments due under this Deed (including for the avoidance of doubt, any amount of value added tax determined by Lombard to be irrecoverable but excluding Taxes on Lombard's overall net profits). The Owner will pay Lombard within five Business Days of demand by Lombard.
- 12.3 Where the Owner indemnifies or reimburses Lombard for any liability, loss or Tax the amount payable by way of indemnity or reimbursement shall take account of the likely Tax treatment in the hands of Lombard (as conclusively determined by Lombard) of (i) the indemnity payment or reimbursement and (ii) the Tax or loss suffered in respect of which that amount is payable. In the event that the assumed Tax treatment of the indemnity payment or any reimbursement proves to be incorrect the Owner agrees to pay, on demand, any additional sum required to ensure that Lombard occupies the same after-Tax position as it would occupy if no such adjustment were necessary.
- 12.4 These indemnities will continue in force notwithstanding any Event of Default or termination of this Deed.

## **13 When security becomes enforceable**

Without prejudice to Lombard's other rights under this Deed or by virtue of applicable law, upon the occurrence of an Event of Default, and at any time thereafter, Lombard may, irrespective of whether a notice has been served on the Owner, declare the security constituted by the Security Documents to have become enforceable whereupon the Security Documents will become enforceable and thereafter Lombard shall be entitled, without further notice or further demand, immediately to exercise all the powers and remedies possessed by it according to applicable law as mortgagee of the Vessel and in particular but, without limitation, the powers set out in this Deed.

## **14 Possession and exercise of powers**

- 14.1 Lombard does not have an immediate right to possession of the Vessel or its income (and will not be considered to be taking possession if it enters to inspect or repair the Vessel). The Owner will continue in possession until Lombard takes possession.



- 14.2 Any purchaser or third party dealing with **Lombard** or a receiver may assume that **Lombard's** powers have arisen and are exercisable without proof that demand has been made.
- 14.3 The receipt of **Lombard** or its delegate or any receiver shall be conclusive discharge to a purchaser in any sale or disposal of any of the **Security Assets**.
- 15 Appointment of receiver**
- Lombard** may appoint or remove a receiver or receivers of the **Vessel**. Any restriction imposed by law on the right of a mortgagee to appoint a receiver (including under section 109(1) of the Law of Property Act 1925) that can be excluded does not apply to this **Deed**. If **Lombard** appoints a receiver, **Lombard** may fix and pay the receiver's fees and expenses. The receiver will be the **Owner's** agent and the **Owner** (and not **Lombard**) will be responsible for the acts, defaults and remuneration of the receiver.
- 16 Powers of Lombard and receivers**
- 16.1 When the security created by this **Deed** becomes enforceable in accordance with clause 13, **Lombard** or any receiver may:
- 16.1.1 enter, take possession of, operate and/or generally manage the **Vessel**;
- 16.1.2 maintain or repair the **Vessel**;
- 16.1.3 sell, hire, lease, charter or accept surrenders of any hire, lease or charter, charge or deal with the **Vessel** without restriction (the power of sale shall arise, and the **Customer's Obligations** shall be deemed due and payable for that purpose, on the execution of this **Deed**);
- 16.1.4 complete any transactions by executing any deeds or documents in the name of the **Owner**;
- 16.1.5 take, continue or defend any proceedings and enter into any arrangement or compromise in relation to the **Security Assets**;
- 16.1.6 insure the **Vessel**, arrange indemnity and other similar insurance, and obtain bonds and give counter-indemnities and other security in connection with this;
- 16.1.7 employ advisers, consultants, managers, agents, workmen and others;
- 16.1.8 purchase or acquire materials, tools, equipment, furnishing, goods or supplies;
- 16.1.9 collect, recover and give good discharge for any moneys or claims forming part of, or relating to, any **Security Assets** and to permit any brokers through whom collection or recovery is effected to charge the usual brokerage for such collection or recovery; and
- 16.1.10 do any acts which **Lombard** or a receiver considers to be incidental to the exercise of its powers or generally beneficial to **Lombard**.
- 16.2 A receiver may borrow and secure the repayment of any money, in priority to the **Customer's Obligations**.
- 16.3 In addition to the powers set out in this clause 16, a receiver shall have all the powers conferred on a receiver by the Law of Property Act 1925 and the Insolvency Act 1986 and any other applicable statute. Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this **Deed**.
- 16.4 Joint receivers may exercise their powers jointly or separately.
- 16.5 A receiver will first apply any money received from the **Vessel** towards the repayment of all money that the receiver has borrowed and secondly in payment of the receiver's fees and expenses. The receiver will then apply any remaining money received as required by law.
- 16.6 **Lombard** may exercise any of its powers whether or not a receiver has been appointed.
- 16.7 Each of **Lombard** and any receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this **Deed** on such terms and conditions as it sees fit, which delegation shall not preclude either the subsequent exercise of such power, authority or discretion by **Lombard** or the receiver itself or any subsequent delegation or revocation of it.

- 16.8 Any credit balance with **Lombard** will not be repayable, or capable of being transferred, charged or dealt with by the **Owner** until the **Customer's Obligations** have been paid in full.
- 16.9 None of **Lombard**, its delegate(s), nominee(s) or any receiver shall be liable for any loss by reason of (a) taking any action permitted by this **Deed** or (b) any neglect or default in connection with the **Security Assets** or (c) taking possession of or realising all or any part of the **Security Assets**, except in the case of gross negligence or wilful default upon its part.
- 16.10 **Lombard** will not be required in any manner to perform or fulfil any obligation of the **Owner**, make any payment, make any enquiry as to the nature or sufficiency of any payment received by it or present or file any claim or take any action to collect or enforce the payment of any amount.
- 16.11 **Lombard** shall not be liable either to the **Owner** or to any other person by reason of the appointment of a receiver or for any other reason associated with such receivership.
- 16.12 Neither **Lombard** nor the receiver will be in any way liable or responsible to the **Owner** for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate, except in the case of gross negligence or wilful default upon their part.
- 17 Application of payments**
- 17.1 **Lombard** may apply any payments received for the **Owner** to reduce any of the **Customer's Obligations**, as **Lombard** decides.
- 17.2 Until all amounts which may be or become payable by the **Owner** to **Lombard** in respect of the **Customer's Obligations** have been irrevocably paid in full, **Lombard** (or any trustee or agent on its behalf) may without affecting the liability of the **Owner** under this deed:
- 17.2.1 refrain from applying or enforcing any other monies, security or rights held or received by **Lombard** (or any trustee or agent on its behalf) against those accounts or apply and enforce them in such manner and order as it sees fit (whether against those amounts or otherwise); and
- 17.2.2 hold in an interest-bearing suspense account any moneys received from the **Owner** or on account of the **Owner's** liability under this **Deed**.
- 17.3 If **Lombard** reasonably considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the **Owner** under this **Deed** and the security created under this **Deed** shall continue and such amount shall not be considered to have been irrevocably paid.
- 17.4 If **Lombard** receives notice of any charge or other interest affecting the **Vessel**, **Lombard** may suspend the operation of the **Owner's** account(s) and open a new account or accounts. Regardless of whether **Lombard** suspends the account(s), any payments received by **Lombard** after the date of that notice will be applied first to repay any of the **Customer's Obligations** arising after that date.
- 18 Preservation of other security and rights and further assurance**
- 18.1 This **Deed** is in addition to any other security for the **Customer's Obligations** held by **Lombard** now or in the future. **Lombard** may consolidate this **Deed** with any other security so that they have to be redeemed together, but it will not merge with or prejudice any other security or **Lombard's** other rights.
- 18.2 The security created under this **Deed** will be a continuing security for the ultimate balance of the **Customer's Obligations** notwithstanding any intermediate payment or settlement of all or any part of the **Customer's Obligations**.
- 18.3 The obligations of the **Owner** under this **Deed** will not be affected by any act, omission or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this **Deed** (whether or not known to it or **Lombard**). This includes:
- 18.3.1 any time or waiver granted to, or composition with, any person;
- 18.3.2 any release of any person under the terms of any composition or arrangement;
- 18.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce any rights against, or security over assets of, any person;

- 18.3.4 any non-presentation, non-observance of any formality or other requirements in respect of any instrument or any failure to realise the full value of any security;
- 18.3.5 any incapacity, lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- 18.3.6 any amendment of any document or security;
- 18.3.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any document or security or the failure by any person to enter into or be bound by any document or security; or
- 18.3.8 any insolvency or similar proceedings.
- 18.4 Without prejudice to the generality of clause 18.2 above, the Owner expressly confirms that it intends that the security under this Deed shall extend from time to time to any variation, increase, extension or addition (however fundamental) of or to any document creating any of the Customer's Obligations and/or any facility or amount made available under such document.
- 18.5 Unless all amounts which may be or become payable by the Owner to Lombard have been irrevocably paid in full or Lombard otherwise directs, the Owner will not, after a claim has been made or by virtue of any payment or performance by it under this Deed:
- 18.5.1 be subrogated to any rights, security or moneys held, received or receivable by Lombard (or any trustee or agent on its behalf); nor
- 18.5.2 be entitled to any right of contribution or indemnity in respect of any payment made or moneys received on account of the Owner's liability under this clause.
- 18.6 The Owner waives any right it may have of first requiring Lombard (or any trustee or agent on Lombard's behalf) to proceed against or enforce any other right or security or claim payment from any person or file any proof or claim in any insolvency, administration, winding-up or liquidation proceedings relative to any other person before claiming from the Owner under this Deed.
- 18.7 On request, the Owner will at its own cost promptly execute any deed or document, or take any other action reasonably required by Lombard, to perfect, protect or enhance Lombard's security under the Security Documents or which Lombard intended to be created by the Security Documents.
- 19 Non-compliance by the Owner**
- If the Owner for any reason fails to observe or punctually perform any of its obligations under this Deed, Lombard shall be entitled, on behalf of or in the name of the Owner or otherwise and at the cost of the Owner, to perform the obligation and to take any steps which Lombard may consider necessary with a view to remedying or mitigating the consequences of the failure.
- 20 Power of attorney**
- To give effect to this Deed and to perfect, protect and enhance the security created by this Deed and secure the exercise of any of their powers, the Owner irrevocably appoints Lombard, and separately any receiver, to be the Owner's attorney (with full power of substitution and delegation), in the Owner's name to sign or execute any documents, deeds and other instruments, or take, continue or defend any proceedings. The Owner ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 20.
- 21 Lombard's rights**
- If Lombard waives or decides not to enforce any of its rights under this Deed, Lombard may enforce any such right at a later date.
- 22 Set-off**
- Lombard may at any time, and without notice to the Owner, combine or consolidate all or any of the Owner's then existing accounts with any liabilities to Lombard and apply any sum due to the Owner in satisfaction of any sum due and unpaid by the Owner under any Finance Document or any other agreement, or guarantee with or other obligation owed to Lombard.

**23 Currency**

23.1 Lombard may convert any payment it receives in any other currency in respect of this **Deed** to the currency of the **Loan Agreement** at its chosen spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market at the relevant time.

23.2 Lombard may convert the **Market Value** stated in any valuation supplied to it in connection with this **Deed** from one currency to another, at its chosen spot rate of exchange for the purchase of the relevant currency in the London foreign exchange market at the relevant time.

**24 Severability**

If at any time any provision in connection with this **Deed** becomes illegal, invalid or unenforceable the remaining provisions will not in any way be affected or impaired thereby.

**25 Variations**

No variation of these terms shall be valid unless it is in writing and signed by or on behalf of each of the **Owner** and **Lombard**.

**26 Notices**

26.1 All consents, notices and demands relating to this **Deed** must be in writing. For the avoidance of doubt, no notices may be served on the **Owner** by email.

26.2 Lombard may deliver a notice or demand to the **Owner** at the contact details last known to **Lombard**, the **Owner's** registered office, or the **Address for Service**, if one is specified.

26.3 A notice or demand by **Lombard** will be deemed given at the time of personal delivery; on the next **Business Day** after posting; or, if by fax or other electronic means, at the time of sending, if sent before 6.00 pm on a **Business Day**, or otherwise on the next **Business Day**.

26.4 The **Owner** must deliver a notice to **Lombard** addressed to:

26.4.1 Lombard North Central Plc  
3 Hampshire Corporate Park  
Templars Way  
Chandlers Ford  
Eastleigh  
SO53 3US  
FAO Tim Hurst / Ian Braham  
Fax: 02380 242 181

26.5 Notice by the **Owner** will be effective when received by **Lombard**. For the avoidance of doubt, no notices may be served on **Lombard** by e-mail.

**27 Transfers**

27.1 Lombard may allow any person to take over any of its rights or duties under this **Deed** and may provide information about the **Owner** or any **Finance Document** to which the **Owner** is party to the transferee in connection with any proposed transfer and any person to whom such information is required to be disclosed by any applicable law.

27.2 The **Owner** is not entitled to assign or otherwise transfer its rights or obligations under this **Deed**.

**28 Counterparts**

This **Deed** may be executed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same instrument.

**29 Third party rights**

No term of this Deed will be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Deed.

**30 Law**

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

30.2 For Lombard's benefit only, the Owner irrevocably submits to the jurisdiction of the English courts in connection with any dispute arising out of, or connected with, or concerning the existence or validity of, this Deed (each a "dispute"). The Owner agrees to waive any objection to the English courts detailed above, whether on the grounds of venue or that the forum is not appropriate. Lombard may take any proceedings in connection with any dispute in any other court of competent jurisdiction.

30.3 Lombard 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 both (i) the Owner, and (ii) 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 (provided always that any such claim form, notice, judgment or other legal process has been validly served on the Owner).


30.4 Any Address for Service, if specified or any other address provided for this purpose, will be an effective address for serving proceedings on the Owner.

**31 Release of security**

Provided always that no Default has occurred and is continuing, in the event that the Vessel is sold and the sale proceeds are used to repay all amounts outstanding under the Loan Agreement, Lombard must, at the request and cost of the Owner, take whatever action is necessary to release the Vessel from any and all security created in favour of Lombard.

IN WITNESS of which this Deed has been executed as a deed by the Owner and signed by Lombard and delivered by them on the date stated at the beginning of this Deed.


Executed and Delivered as a deed by Caledonian Towage Limited

Director   
Print name David James Macdonald

Director/Secretary  
Print name \_\_\_\_\_

If there is only one signature, which must be that of a Director, a witness is required

Signed by the Director in the presence of:

Witness' signature   
Witness' name in full MALCOLM DONALD  
Address 34 ALBYN PLACE  
ABERDEEN  
Occupation SOLICITOR

Signed by Lombard North Finance plc

**29 Third party rights**

No term of this **Deed** will be enforceable solely by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this **Deed**.

**30 Law**

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

30.2 For **Lombard's** benefit only, the **Owner** irrevocably submits to the jurisdiction of the English courts in connection with any dispute arising out of, or connected with, or concerning the existence or validity of, this **Deed** (each a "**dispute**"). The **Owner** agrees to waive any objection to the English courts detailed above, whether on the grounds of venue or that the forum is not appropriate. **Lombard** may take any proceedings in connection with any dispute in any other court of competent jurisdiction.

30.3 **Lombard** 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 both (i) the **Owner**, and (ii) 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 (provided always that any such claim form, notice, judgment or other legal process has been validly served on the **Owner**).

30.4 Any **Address for Service**, if specified or any other address provided for this purpose, will be an effective address for serving proceedings on the **Owner**.

**31 Release of security**

Provided always that no **Default** has occurred and is continuing, in the event that the **Vessel** is sold and the sale proceeds are used to repay all amounts outstanding under the **Loan Agreement**, **Lombard** must, at the request and cost of the **Owner**, take whatever action is necessary to release the **Vessel** from any and all security created in favour of **Lombard**.

**IN WITNESS** of which this **Deed** has been executed as a deed by the **Owner** and signed by **Lombard** and delivered by them on the date stated at the beginning of this **Deed**.

**Executed and Delivered as a deed by Caledonian Towage Limited**

Director \_\_\_\_\_  
Print name \_\_\_\_\_

Director/Secretary \_\_\_\_\_  
Print name \_\_\_\_\_

If there is only one signature, which must be that of a Director, a witness is required

Signed by the Director in the presence of:

Witness' signature \_\_\_\_\_

Witness' name in full \_\_\_\_\_

Address \_\_\_\_\_

Occupation \_\_\_\_\_

Signed by **Lombard North Finance plc**



Print name Gerry King