



Registration of a Charge

Company name: **Southampton Isle of Wight and South of England Royal Mail Steam Packet Company Limited**

Company number: **00002404**

Received for Electronic Filing: **27/07/2017**



Details of Charge

Date of creation: **20/07/2017**

Charge code: **0000 2404 0105**

Persons entitled: **RBC EUROPE LIMITED (IN ITS CAPACITY AS SECURITY AGENT FOR THE SECURED PARTIES)**

Brief description: **A SHIP CALLED RED EAGLE WITH OFFICIAL NUMBER 728755.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

ED WALLIS



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2404

Charge code: 0000 2404 0105

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th July 2017 and created by Southampton Isle of Wight and South of England Royal Mail Steam Packet Company Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th July 2017 .

Given at Companies House, Cardiff on 31st July 2017

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

20 July

2017

**SOUTHAMPTON ISLE OF WIGHT AND SOUTH OF ENGLAND
ROYAL MAIL STEAM PACKET COMPANY LIMITED**
(as Mortgagor)

- and -

RBC EUROPE LIMITED
(as Mortgagee)

DEED OF COVENANTS

- in relation to -

THE VESSEL IN SCHEDULE 1

Save for material redacted pursuant to s859G of the
Companies Act 2006, I certify that this is a true and
complete copy of the composite original seen by me

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Name: F. WALLIS
Title: Solicitor

Date: 25/7/17

Hogan Lovells International LLP (Ref: _____)
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Matter ref 1U1643/000050
F3/MARSTONM/5699789

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THIS DEED is dated

20 July

2017

BETWEEN:

- (1) **Southampton Isle of Wight and South of England Royal Mail Steam Packet Company Limited** (Registered number 00002404) (the "**Mortgagor**"), and
- (2) **RBC Europe Limited** (the "**Mortgagee**" and the "**Security Agent**") as agent and trustee for, amongst others, the Secured Parties (as defined in the Facilities Agreement defined below)

BACKGROUND:

- (A) The Mortgagor is the sole unencumbered legal and beneficial owner of all the shares in the Vessel.
- (B) Subject to the terms and conditions of a facilities agreement dated 23 June 2017 between (among others) the Company, the Agent and the Security Agent, the Original Lenders agreed to provide £140,000,000 term and revolving facilities (the "**Facilities Agreement**").
- (C) By the Facilities Agreement, among other things, it is agreed that, as security for the Secured Obligations, the Mortgagor shall execute and deliver in favour of the Security Agent a first priority statutory mortgage of all the shares in respect of the Vessel, together with this Deed of Covenants, which is supplemental to such Statutory Mortgage.

IT IS AGREED as follows

1. INTERPRETATION

1.1 Definitions

In this Deed:

"Act" means the Law of Property Act 1925.

"Applicable Laws" means:

- (a) any law, statute, decree, constitution, regulation, authorisation, judgment, injunction or other directive of any Government Entity,
- (b) any treaty, pact, compact or other agreement to which any Government Entity is a signatory, party or contracting state,
- (c) any judicial or administrative interpretation with binding characteristics or application of those described in (a) or (b) above, or
- (d) any codes of practice or conduct, circulars and guidance notes generally accepted and approved by the shipping industry,

and in each case, which is applicable to the Vessel or its use or operation or the Mortgagor.

"Beneficiary" means each Secured Party.

"Casualty Amount" means seven hundred and fifty thousand pounds sterling (£750,000) (or the equivalent in any other currency).

"Compulsory Acquisition" means requisition for title or other compulsory acquisition, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Vessel by any Government Entity or other competent authority, whether *de jure* or *de facto*, but shall exclude requisition for use or hire not involving requisition of title.

"Earnings" means all monies whatsoever due or to become due to or for the account of the Mortgagor at any time arising out of the ownership, possession, use or operation of the Vessel including, but not limited to, all freight, hire and passage monies and all other amounts payable from time to time under any charter, contract or carriage, pooling agreement or other contract relating to the Vessel and all compensation payable to the Mortgagor in the event of requisition of the Vessel for hire, remuneration for salvage and towage services, demurrage and detention monies, the proceeds of any off-hire or loss of earnings insurance, damages and other payments (whether awarded by any court or arbitral tribunal or by agreement or otherwise) for breach, termination or variation of any charterparty or other agreement relating to employment of the Vessel, any other earnings of the Vessel and any compensation receivable by the Mortgagor in respect of the Vessel, her employment or lack of employment (other than Requisition Compensation) during the Security Period.

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

- (a) all losses, liabilities, costs, charges, expenses, damages and outgoings of whatever nature (including, without limitation, Taxes, repair costs, registration fees and insurance premiums) suffered, incurred or paid by the Security Agent or any Receiver in connection with the exercise of the powers referred to in or granted by this Deed or otherwise payable by the Mortgagor in accordance with Clause 17 (*Expenses and Indemnity*); and
- (b) interest on all such losses, liabilities, costs, charges, expenses, damages and outgoings from the date on which the same were suffered, incurred or paid by the Security Agent or any Receiver until the date of receipt or recovery thereof (whether before or after judgment) at a rate per annum equal to the rate payable under clause 13.3 (*Default interest*) of the Facilities Agreement (as conclusively certified by the Security Agent or such Receiver, as the case may be).

"Government Entity" means and includes (whether having a distinct legal personality or not) any natural or local government authority, board, commission, department, division organ, instrumentality, court of agency and any association, organisation or institution of which any of the foregoing is a member of or to whose jurisdiction any of the foregoing is subject or in whose activities any of the foregoing is a participant.

"Intercreditor Agreement" means the intercreditor agreement dated 23 June 2017 between (among others) the Company, the Parent, the Agent and the Security Agent.

"Marine Insurances" mean all policies and contracts of insurance including all rights under all loss of hire insurances and all entries in any protection and indemnity or war risks associations which are from time to time taken out or entered into in respect of the Vessel and her Earnings and all the benefits thereof including all claims of whatsoever nature including, without limitation thereto, returns of premiums and the Mortgagor's rights to settle and/or compromise claims in connection with the policies and contracts.

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

"Party" means a party to this Deed.

"Permitted Alteration" means any alterations accounted for in the Base Case Model.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

"Requisition Compensation" means all compensation payable by reasons of any Compulsory Acquisition of the Vessel during the Security Period.

"Secured Obligations" has the meaning given to it in the Intercreditor Agreement.

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Assets" means all assets of the Mortgagor the subject of any security created by this Deed.

"Security Period" means the period beginning on the date of this Deed and ending on the date on which all the Secured Obligations have, to the satisfaction of the Security Agent (acting reasonably), been unconditionally and irrevocably paid and discharged in full.

"Shipping Registry" means the UK Maritime and Coastguard Agency.

"Statutory Mortgage" means the first priority statutory mortgage dated on or around the date of this Deed in respect of the Vessel executed by the Mortgagor in favour of the Security Agent.

"Technical Records" means all technical data, manuals, logbooks, records and other materials and documents relating to the Vessel.

"Total Loss" means:

- (c) the actual or constructive or compromised or arranged or agreed total loss of the Vessel;
- (d) the Compulsory Acquisition of the Vessel; or
- (e) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Vessel (other than where the same amounts to the Compulsory Acquisition of such Vessel) by any Government Entity, or by persons acting or purporting to act on behalf of any Government Entity, unless the Vessel is released and restored to the Mortgagor from such hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation within 30 days after the occurrence.

"Vessel" means the vessel identified in Schedule I (Vessel) registered in the ownership of the Mortgagor under the UK flag including any share or interest in that vessel and all engines, boilers, machinery, masts, spars, sails, appliances, boats, tackle, outfit, spares, fuel, consumables and other stores and belongings and appurtenances whether on board or ashore and whether now owned or acquired after the date of this Deed, and also any

and all conditions, improvements and replacements made after the date of this Deed in or to the vessel or any part of it.

1.2 Construction

- (a) Capitalised terms defined in the Intercreditor Agreement or the Facilities Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) The provisions of clause 1.2 (*Construction*) of the Intercreditor Agreement apply to this Deed as though they were set out in full in this Deed, except that references to the Intercreditor Agreement will be construed as references to this Deed.
- (c) A reference to a Debt Document or other document or security includes (without prejudice to any prohibition on amendments) any amendment to that Debt Document or other document or security, including any change in the purpose of, any extension or any increase in the amount of a facility or any additional facility.
- (d) Any covenant of the Mortgagor under this Deed (other than a payment obligation) remains in force during the Security Period and is given for the benefit of each Secured Party.
- (e) If the Security Agent reasonably considers that an amount paid to a Secured Party under a Debt Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (f) Any reference in this Deed to when Security becomes enforceable means when the Security has become enforceable in accordance with the terms of this Deed.
- (g) Unless the context otherwise requires, a reference to a Security Asset includes:
 - (i) any part of that Security Asset; and
 - (ii) the proceeds of that Security Asset.

2. CREATION OF SECURITY

2.1 General

- (a) All the security created under this Deed and the Statutory Mortgage:
 - (i) is created in favour of the Security Agent for itself and on behalf of the other Secured Parties;
 - (ii) is created over present and future assets of the Mortgagor;
 - (iii) is security for the payment and performance of all the Secured Obligations; and
 - (iv) is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) The Security Agent holds the benefit of this Deed and the Statutory Mortgage on trust for the Secured Parties.

2.2 Vessel

The Mortgagor mortgages and charges the Vessel and Technical Records by way of first legal mortgage.

2.3 Assignment of Earnings and Requisition Compensation

- (a) The Mortgagor assigns and agrees to assign absolutely to the Security Agent all its rights, title and interest in and to the Earnings and the Requisition Compensation and all its benefits and interest present and future therein.
- (b) Unless and until the Security Agent gives a written direction following a Declared Default requiring the Earnings to be paid in accordance with such direction, the Mortgagor may apply the Earnings received by it as it may decide in its discretion, subject always to the provisions set out in the Finance Documents.
- (c) Upon the Security Agent giving a written direction pursuant to paragraph (b) above, the Mortgagor undertakes to pay and to procure the payment of all the Earnings without deduction or set-off to such account as the Security Agent may direct in writing and any amount in respect of the Earnings then in the control for the Mortgagor's brokers, banker or agent shall be deemed to have been received by them on trust for the Security Agent.
- (d) When so directed by the Security Agent following a Declared Default, the Mortgagor undertakes to give notice of assignment of the Earnings to any third party in such form as the Security Agent may require and shall use its reasonable endeavours to obtain from that third party:
 - (i) the acknowledgement of the notice of assignment addressed to the Security Agent; and
 - (ii) such third party's agreement to pay the Earnings in accordance with the Security Agent's directions.

2.4 Assignment of rights under Relevant Charters

- (a) Subject to paragraph (b) below, the Mortgagor undertakes when so requested by the Security Agent to execute a specific assignment of any time charter, demise charter or consecutive voyage charter exceeding six months duration (each a "**Relevant Charter**").
- (b) If the rights of the Mortgagor under a Relevant Charter cannot be secured without the consent of a party to that document:
 - (i) the Mortgagor must notify the Security Agent promptly;
 - (ii) this Security will secure all amounts which the Mortgagor may receive, or has received, under that document but exclude the document itself; and
 - (iii) unless the Security Agent otherwise requires, the Mortgagor must use reasonable endeavours to obtain the consent of the relevant party to that Relevant Charter being secured under this Deed.

3. ASSIGNMENT OF INSURANCES

The Mortgagor, for the purpose of securing to the Security Agent the Secured Obligations, with full title guarantee hereby assigns and agrees to assign absolutely to the Security Agent all the Mortgagor's rights, title and interest in and to the Marine Insurances and all its benefits and interests present and future therein, to be held by the Security Agent on the terms of the Debt Documents for the Beneficiaries.

4. FURTHER ASSURANCES

4.1 Further assurances

- (a) Subject always to the Agreed Security Principles, the Mortgagor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as are necessary and reasonably specified by the Security Agent (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by the Deed or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law;
 - (ii) to confer on the Security Agent or confer on the Finance Parties Security over any property and assets of the Mortgagor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
 - (iii) (after the Security has become enforceable in accordance with its terms) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security.
- (b) Subject always to the Agreed Security Principles, the Mortgagor will take all such action as is available to it (including making all filings and registrations) as is reasonably requested by the Security Agent and is necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

4.2 Action required

The action that may be required under Clause 4.1 (*Further assurances*) includes:

- (a) the execution of any mortgage, charge, transfer, conveyance, assignment or assurance in respect of any asset, whether to the Security Agent or to its nominee, or
- (b) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Security Agent may think expedient.

5. RESTRICTIONS ON DEALINGS

The Mortgagor must not and must ensure that the Manager does not:

- (a) create or permit to subsist any Security on any Security Asset; or
 - (b) sell, transfer, licence, lease or otherwise dispose of any Security Asset,
- except as expressly allowed under the Facilities Agreement or this Deed.

6. REPRESENTATIONS

6.1 Nature of security

The Mortgagor represents to each Secured Party that:

- (a) it is the sole legal and beneficial owner of, and has good title to, all of the shares in the Vessel and the Vessel is free from any Security or Quasi-Security in respect of the Vessel or part thereof other than:
 - (i) any Permitted Security; or
 - (ii) any Security or Quasi-Security given under or contemplated in the Debt Documents;
- (b) 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;
- (c) the Vessel is duly registered with the Shipping Registry and any and all licences and permits required for the operation of the Vessel have been obtained from all relevant authorities of, or in the United Kingdom;
- (d) save as permitted in the Debt Documents, the Mortgagor has not assigned, transferred, pledged or charged the Earnings, the Marine Insurances and/or the Requisition Compensation;
- (e) the Vessel is insured and classed in accordance with the requirements of this Deed; and
- (f) the Mortgagor is operating the Vessel in accordance with all Applicable Laws.

6.2 Times for making representations

- (a) The representations set out in this Deed (including in this Clause) are made on the date of this Deed.
- (b) Unless a representation is expressed to be given at a specific date, each representation under this Deed is deemed to be repeated by the Mortgagor on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period.
- (c) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

7. COVENANT TO PERFORM AND NOTICE OF ASSIGNMENT

- (a) The Mortgagor must pay or discharge the Secured Obligations in the manner provided for in the Debt Documents.

- (b) In the event of the Compulsory Acquisition of the Vessel, the Mortgagor agrees to apply such Requisition Compensation:
 - (i) where received prior to a Declared Default, in accordance with clause 11 (*Mandatory Prepayment and Cancellation*) of the Facilities Agreement, such amounts to be treated as Disposal Proceeds (which are not, for the avoidance of doubt, Excluded Disposal Proceeds) under that clause; and
 - (ii) where received following a Declared Default, by payment to the Security Agent, to be applied in accordance with Clause 16 (*Application of proceeds*).

8. COVENANTS

The Mortgagor covenants with the Security Agent and undertakes throughout the Security Period:

(a) Registration and Classification:

- (i) not to change the name of the Vessel, without the consent of the Security Agent (such consent not to be unreasonably withheld or delayed);
- (ii) to keep the Vessel registered as a British vessel in the United Kingdom and to register and maintain the registration of the Statutory Mortgage;
- (iii) not to do or suffer to be done anything or omit to do anything, the doing or omission of which is reasonably likely to result in such registration being forfeited or imperilled or which might result in the Vessel being required to be registered otherwise than as a British vessel in the United Kingdom; and
- (iv) if the said registration of the Vessel is for a limited period, to renew the registration of the Vessel at least 21 days prior to the expiry of such registration and to provide evidence of such renewal to the Security Agent at least 10 days prior to such expiry.

(b) Condition and repair

- (i) to keep the Vessel in a seaworthy condition and in a good state of repair and to procure that all repairs to, or replacement of, any damaged, worn or lost parts or equipment are effected in such manner so as to maintain at least the same value and utility of the Vessel having regard to its age and any depreciation of value due to age and not to do or allow to be done anything or omit to do anything else which is reasonably likely to have an effect on the value of the Vessel which would have a Material Adverse Effect;
- (ii) not to make or permit any alteration (unless required by law) to the Vessel (other than a Permitted Alteration) where the costs of such alteration will exceed the amount of £500,000 over any 12 month period without the prior written consent of the Security Agent (such approval not to be unreasonably withheld or delayed);

- (iii) not without the prior consent of the Security Agent to make, nor permit nor cause to be made, any material change in the structure, type or speed of the Vessel; and
- (iv) to maintain the Vessel in a condition entitling it to the highest class applicable to vessels of its type with a classification society approved by the Security Agent free of recommendations and qualifications.

(c) **Compliance with regulations**

- (i) to maintain a current Passenger Ship Safety Certificate issued by the Department of Transport, Local Government and the Regions (Maritime and Coastguard Agency) and to comply with and ensure that the Vessel at all times complies in all material respects with the provisions of the Merchant Shipping Act 1995 and all Applicable Laws from time to time applicable to vessels registered at the Shipping Registry or otherwise applicable to the Vessel to the extent that failure to comply or absence thereof has or is reasonably likely to have a Material Adverse Effect; and
- (ii) to comply with all laws, conventions and regulations applicable to the Mortgagor or to the Vessel and to carry on board the Vessel the certificates and other documents which may from time to time be required to evidence such compliance.

(d) **Surveys**

To submit the Vessel to such periodical or other surveys as may reasonably be required for classification or certification purposes and, if reasonably requested by the Security Agent, to give the Security Agent copies of all such surveys and any other related documents.

(e) **Inspection**

To ensure that the Security Agent, by surveyors or other persons appointed by it for such purpose, may board the Vessel at all reasonable times and upon reasonable prior notice for the purpose of inspecting her and to afford all proper facilities for such inspections.

(f) **Prevention of and release from arrest**

As soon as reasonably practicable having had notice of the same, to pay and discharge or procure the payment and discharge of all debts, damages, liabilities and outgoings whatsoever which have given or may give rise to maritime, statutory or possessory liens on, or claims enforceable against, the Vessel, her Earnings or any part thereof or any Requisition Compensation and, in the event of a writ or libel being filed against the Vessel, her Earnings or any part thereof or any Requisition Compensation, or of any of the same being arrested, attached to levied upon pursuant to legal process or purported legal process or in the event of detention of the Vessel in the exercise or purported exercise of any such liens or claims as aforesaid use best endeavours to procure (and in any case, to procure within 14 days of the event) the release of the Vessel, her Earnings, or any Requisition Compensation from such arrest, detention, attachment or levy or, as the case may be, the discharge of the writ or libel forthwith upon receiving notice

thereof by providing bail or procuring the provision of security or otherwise (to the extent permitted by the Debt Documents) as the circumstances require.

(g) **Earnings**

- (i) save as previously notified in writing to the Security Agent, not to voyage charter or time charter or demise charter the Vessel or enter into any other contract for the use of the Vessel and save as consented to by the Security Agent in writing, not to demise or bareboat charter the Vessel to any person; and
- (ii) to duly perform all material obligations undertaken by the Mortgagor in all charters, bills of lading or other contracts entered into by the Mortgagor for the use of the Vessel and the carriage of cargo and passengers.

(h) **Notification of certain events**

- (i) to notify the Security Agent immediately of any:
 - (1) occurrence in consequence of which the Vessel has suffered loss or damage, the rectification or repair cost of which is reasonably expected to exceed the Casualty Amount or may become a Total Loss;
 - (2) any actual or threatened arrest or detention of the Vessel or any exercise or purported exercise of a lien or other claim on the Vessel, the Earnings, any Requisition Compensation or the Marine Insurance or any part thereof,
- (ii) to inform the Security Agent of the use and operation of the Vessel including any material changes regarding the frequency of scheduled sailings and any use of the Vessel outside of its regular routes and, when so requested by the Security Agent, to provide the Security Agent copies of standard terms and conditions of carriage, all charters and other documents relating to the use and operation of the Vessel, provided that all information relating to the frequency of scheduled sailings and requirements as to the provision of standard terms and conditions of carriage shall be satisfied by such information being available on the Red Funnel group website from time to time;
- (iii) to inform the Security Agent immediately of any material recommendation or material requirement notified to the Mortgagor by any governmental or international authority which is not complied with within the time limit specified;
- (iv) provide the Security Agent with the proposed timetable for planned drydocking or underwater inspection of the Vessel so that the Security Agent can arrange for its representatives to attend such dry-docking or inspection provided the Security Agent gives notice to the Mortgagor of its intention to do so.

(i) **Payment of Outgoings and evidence of payments**

As soon as reasonably practicable having had notice of the same to pay or procure the payment of all tolls, dues and other outgoings whatsoever (including

all taxes, social security and national insurance contributions, governmental charges, fines and penalties) in respect of the Vessel, her Earnings, any Requisition Compensation and the Marine Insurances and to keep proper books of account in respect of the Vessel, her Earnings and any Requisition Compensation and, as and when the Security Agent may reasonably so require, to make such books available to inspection on behalf of the Security Agent.

(j) **Notice of mortgage**

To place and at all times and places to retain a properly certified copy of the relevant Statutory Mortgage (which shall form part of the Vessel's documents) on board the Vessel with her papers and cause such certified copy of the Statutory Mortgage to be exhibited to any and all persons having business with the Vessel which business might create or imply any commitment or encumbrance whatsoever in respect of the Vessel (other than a lien for crew's wages and salvage) and to any representative of the Security Agent and to place and keep properly displayed in the navigation room and in the master's cabin of the Vessel a framed printed notice in plain type reading as follows.

"NOTICE OF MORTGAGE

This Vessel is subject to a first priority statutory mortgage and collateral deed of covenants in favour of RBC Europe Limited of Riverbank House, 2 Swan Lane, London EC4R 3BF. Under the said mortgage and deed of covenants neither the Mortgagor nor any charterer nor the master of this Vessel has any right, power or authority to create, incur or permit to be imposed upon this Vessel any commitments or encumbrances whatsoever other than for crew's wages and salvage"

and in terms of the said notice it is hereby agreed that, save and subject as otherwise herein provided, neither the Mortgagor nor any charterer nor the master of the Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon the Vessel any lien whatsoever other than any Permitted Security or for crew's wages and salvage.

(k) **Conveyance on default**

Where the Vessel is (or is to be) sold in exercise of any power contained in this Deed or otherwise conferred on the Security Agent, to execute, forthwith upon request by the Security Agent, such form of conveyance of the Vessel and any other documents as the Security Agent may reasonably require.

(l) **Security**

Not without the prior consent of the Security Agent, to create or purport to agree or create or permit to arise or subsist any Security or Quasi-Security (other than any Permitted Security or any Security or Quasi-Security given under or contemplated in the Debt Documents) over or in respect of the Vessel, any share or interest therein otherwise than in favour of the Security Agent.

(m) **Sale or other disposal**

Not without the prior written consent of the Security Agent to sell, agree to sell, transfer, abandon or otherwise dispose of the Vessel or any share or interest therein except pursuant to or as permitted under the Debt Documents.

(n) **Mortgagees' Insurance**

The Mortgagee shall be at liberty to take out Mortgagees' Insurances in relation to the Vessel for such amounts and on such terms and conditions as the Mortgagee may from time to time decide, and the Mortgagor shall from time to time on the Mortgagee's demand reimburse the Mortgagee for all costs, premiums and expenses paid or incurred by the Mortgagee in connection with any Mortgagees' Insurances.

(o) **Regulation Compliance**

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:

- (i) procure that the Vessel remains for the duration of the Security Period subject to a safety management system developed and implemented in accordance with the ISM Code; and
- (ii) maintain for the Vessel throughout the Security 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
- (iii) 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 Security 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
- (iv) 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,

(p) 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:

- (i) procure that the Vessel and the company responsible for the Vessel's compliance with the ISPS Code comply with the ISPS Code;
- (ii) maintain for the Vessel throughout the Security Period a valid and current International Ship Security Certificate issued under the ISPS Code ("**ISSC**") and provide a copy to the Mortgagee; and
- (iii) notify the Mortgagee immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC; and

(q) 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:

- (i) procure that the Vessel's master and crew are familiar with, and that the Vessel complies with, Annex VI;
- (ii) 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
- (iii) notify the Mortgagee immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the IAPPC.

9. INSURANCE

9.1 Definitions

In this Clause:

"Approved Brokers" means the insurance brokers appointed by the Mortgagor with the Security Agent's approval (acting reasonably).

"Excess Risks" means the proportion of claims for general average and salvage charges which is not recoverable in consequence of the value at which the Vessel is assessed for the purpose of such claims exceeding their insured value.

"Insurers" mean the underwriters, insurance companies, mutual insurance associations or other associations or companies with or by which the Marine Insurances are effected.

"Marine Insurance Documents" means all slips, cover notes, contracts, policies, certificates of entry or other insurance documents evidencing or constituting the Marine Insurances from time to time in effect.

"Protection and Indemnity Risks" means the usual risks covered by a protection and indemnity association including (without limitation) the proportion (if any) not recoverable in the case of collision under the hull and machinery policies (clause 8 of the Institute Time Clauses — Hulls (1/11/95) or any equivalent provision) liability for third-party risks and pollution liability.

9.2 Insurance Policies

The Mortgagor hereby covenants with the Security Agent during the Security Period:

- (a) to insure and keep insured the Vessel, in Sterling or such other currency as may be approved in writing by the Security Agent at the Mortgagor's expense in an amount equal to its full replacement value or such other amount as the Security Agent and the Mortgagor (both acting reasonably) may agree against fire, marine, third party, war and other risks (including Excess Risks) and other risks covered by hull and machinery policies;
- (b) to enter the Vessel at its own expense in the name of the Mortgagor for its full value and tonnage in a protection and indemnity association approved by the Security Agent with unlimited liability if available at reasonable cost (otherwise with the least limited liability) against all Protection and Indemnity Risks;
- (c) to insure the Vessel at the Mortgagor's expense against all oil pollution liability and contamination risks as the Security Agent may require with such Insurers and on such terms as the Security Agent, acting reasonably, may approve; and

- (d) to effect such additional Marine Insurances at its own expense as (in the reasonable opinion of the Security Agent) shall be necessary or advisable from time to time.

9.3 Insurance Covenants

- (a) The Mortgagor further covenants with the Security Agent during the Security Period:
 - (i) to effect the Marine Insurances through the Approved Brokers in such amounts upon such terms and with such Insurers as shall from time to time be approved in writing by the Security Agent (acting reasonably);
 - (ii) to instruct the Insurers (or other appropriate insurers) to renew on expiry each of the Marine Insurances at least 14 days before expiry and to procure that the Approved Brokers or the Insurers promptly confirm in writing to the Security Agent as and when each renewal is effected;
 - (iii) punctually to pay or procure the payment of all premiums, calls, contributions or other amounts payable in respect of the Marine Insurances and to produce all relevant receipts when so required in writing by the Security Agent;
 - (iv) to arrange for the execution of such guarantees and indemnities as may from time to time be required by the protection and indemnity association in connection with the Marine Insurances;
 - (v) to give notice of assignment of the Marine Insurances to the Insurers on the date of this Deed (and upon the request of the Security Agent at any other time the Security Agent may reasonably request) in the form of Schedule 2 to this Deed and to use its reasonable endeavours to procure that a notice of assignment and a Loss Payee Clause in the form of Schedule 3 to this Deed (as may be relevant) or in any form acceptable to the Mortgagee are endorsed upon or attached to the Marine Insurance Documents;
 - (vi) to procure that the Marine Insurance Documents are deposited with the Approved Brokers and that such brokers provide the Security Agent with certified copies thereof and issue to the Security Agent a letter or letters of undertaking (other than in respect of the protection and indemnity association) in such form as the Security Agent may request including provisions substantially as follows:
 - (1) to give 14 days' prior written notice to the Security Agent if the relevant Marine Insurances are to be cancelled save that, where the terms of the relevant policy provides for a notice period of less than 14 days or does not provide for a notice period in the circumstances to which the proposed cancellation or actual cancellation relates, they will deliver such notice to the Security Agent promptly upon becoming aware of the same,
 - (2) as soon as any of them becomes aware that the Mortgagor has failed to pay any premium or renew any insurance, such broker will use all reasonable endeavours to procure that the insurers will:

- (i) give the Security Agent a reasonable opportunity to pay amounts outstanding before any notice of cancellation is issued by or on behalf of such insurers; and
 - (ii) will keep the Security Agent's interest in such policy in force up to the full sum insured and for the same risks (subject to the relevant insurer's agreement and the premium for any such period of extended cover being paid by the Security Agent for the account of the relevant company in the Group,
- (3) if the insurance cover is to be reduced or any insured risks are to be restricted, it will advise the Security Agent at least 14 days before such reduction or restriction is due to take effect or promptly on receiving notice of such proposed reduction or restriction where the relevant policy of insurance provides for a notice period of less than 14 days in the circumstances of the proposed reduction or restriction;
- (4) it will advise the Security Agent immediately of any act, omission or event which comes to the knowledge of the broker and which might invalidate the insurance or render it unenforceable, in whole or in part; and
- (5) it will advise the Security Agent if any claim with a value in excess of £500,000 is rejected by insurers or if insurers make a reservation of rights following the notification of any claim;
- (vii) to use reasonable endeavours to procure that the protection and indemnity association in which the Vessel is entered provides the Security Agent with a copy of the certificate of entry and with a letter or letters of undertaking in substantially the form attached at Schedule 4 to this Deed in which they agree (inter alia) to give 14 days' prior notice to the Security Agent if the relevant protection and indemnity insurances are to be cancelled, or in any form acceptable to the Mortgagee;
- (viii) to use reasonable endeavours to procure that the Marine Insurances provide that any lien or set-off for unpaid premiums or calls that the Approved Brokers or the Insurers may have is limited to the premiums or calls due in relation to the Marine Insurances on the Vessel;
- (ix) promptly to provide the Security Agent with full information regarding any casualties or damage to the Vessel in an amount in excess of £750,000 or as a result of which the Vessel has become or may become a Total Loss;
- (x) at the written request of the Security Agent, to provide the Security Agent with a detailed report in relation to the Marine Insurances issued by a firm of marine insurance brokers or consultants nominated by the Security Agent;
- (xi) not to do any act or permit any act to be done as result of which any Marine Insurance shall or may be suspended or avoided and not to permit the Vessel to engage in any voyage (including entry into a declared war zone) nor to carry any cargo not permitted under the Marine Insurances in

effect without first placing insurances on the Vessel in the amount stated in Clause 9.2 (*Insurance Policies*) in terms satisfactory to the Security Agent for such voyage or the carriage of such cargo; and

(xii) to pay to the Security Agent on demand all premiums or other amounts payable by the Security Agent in effecting and maintaining in an amount not exceeding the required amount, on such terms and with such underwriters as the Security Agent may reasonably decide after consultation with the Mortgagor, a mortgagees' interest insurance policy and a mortgagees' interest addition perils (pollution) policy in the name of the Security Agent.

(b) If the Mortgagor fails to insure the Vessel in accordance with Clause 9.2 (*Insurance Policies*) or fails to pay or procure the payment of the premiums and calls due, the Security Agent shall, on 10 Business Days' prior written notice to the Mortgagor of its intention to do so, have the right to place the Marine Insurances and pay the premiums and calls due and the Mortgagor shall pay to the Security Agent on demand all amounts so paid or payable by the Security Agent.

9.4 Insurance Claims

Subject to clause 11 (*Mandatory Prepayment and Cancellation*) of the Facilities Agreement, it is agreed that until a Declared Default (in which event all claims under the Marine Insurances will be paid to the Security Agent) all claims payable under the Marine Insurances will be payable to the Mortgagor and applied for the purposes of the repair of the damage, the reparation of the loss or the discharge of the liability in respect of which such amount shall have been paid.

10. PRESERVATION OF SECURITY

10.1 Continuing security

This Security and the Security created by the Statutory Mortgage are both a continuing security and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part.

10.2 Reinstatement

(a) If any discharge (whether in respect of the obligations of the Mortgagor or 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 on insolvency, liquidation or otherwise without limitation, the liability of the Mortgagor under this Deed will continue or be reinstated as if the discharge or arrangement had not occurred.

(b) Each Secured Party may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

10.3 Waiver of defences

The obligations of the Mortgagor under this Deed will not be affected by any act, omission or thing (whether or not known to the Mortgagor or any Secured Party) which, but for this provision, would reduce, release or prejudice any of its obligations under this Deed This includes:

- (a) any time or waiver granted to, or composition with, any person;
- (b) the release of any person under the terms of any composition or arrangement;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (f) any amendment (however fundamental) of a Debt Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Debt Document or other document or security; or
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Debt Document or any other document or security; or
- (h) any insolvency, resolution or similar proceedings.

10.4 Amendments to the Debt Documents

- (a) Without limiting Clause 10.3 (*Waiver of defences*), the Mortgagor acknowledges that the Debt Documents may from time to time be amended (and that term has the wide meaning given to it by clause 1.2 (*Construction*) of the Intercreditor Agreement).
- (b) The Mortgagor confirms its intention that:
 - (i) any amendment to a Debt Document is within the scope of the Secured Obligations and this Security; and
 - (ii) the Secured Obligations and this Security extend to any amount payable by the Mortgagor under or in connection with a Debt Document as amended.
- (c) The Mortgagor agrees that the confirmations in paragraph (b) above apply regardless of:
 - (i) why or how a Debt Document is amended (including the extent of the amendment and any change in the parties);
 - (ii) whether any amount payable by an Obligor under or in connection with the amended Debt Document in any way relates to any amount that would or may have been payable had the amendment not taken place;
 - (iii) the extent to which the Mortgagor's liability under this Deed (whether present or future, actual or contingent), or any right it may have as a result of entering into or performing its obligations under this Deed, changes or may change as a result of the amendment; and
 - (iv) whether the Mortgagor was aware of or consented to the amendment.

10.5 Immediate recourse

- (a) The Mortgagor waives any right it may have of first requiring any Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Mortgagor under this Deed.
- (b) This waiver applies irrespective of any law or provision of a Debt Document to the contrary.

10.6 Appropriations

Each Secured Party may at any time during the Security Period:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Secured Party in respect of the Secured Obligations or apply and enforce them in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and the Mortgagor will not be entitled to the benefit of such moneys, security or rights; and
- (b) hold in an interest-bearing suspense account any moneys received from the Mortgagor or on account of the Mortgagor's liability under this Deed.

10.7 Non-competition

- (a) Unless the Security Period has expired or the Security Agent otherwise directs, the Mortgagor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising under this Deed:
 - (i) to be indemnified by an Obligor;
 - (ii) to claim any contribution from any other person who has provided security or a guarantee in respect of any Obligor's obligations under the Debt Documents;
 - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Debt Documents by any Secured Party;
 - (iv) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Mortgagor has granted security under this Deed;
 - (v) to exercise any right of set-off against any Obligor; and/or
 - (vi) to claim or prove as a creditor of any Obligor in competition with any Secured Party.
- (b) If the Mortgagor receives any benefit, payment or distribution in relation to such rights it must hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by the Obligors under or in connection with the Debt Documents to be repaid in full on trust for the Secured Parties and must promptly pay or transfer them to the

Security Agent or as the Security Agent may direct for application in accordance with the terms of this Deed.

10.8 Additional security

- (a) This Security is in addition to and is not in any way prejudiced by any other security now or subsequently held by any Secured Party.
- (b) No prior security held by any Secured Party (in its capacity as such or otherwise) over any Security Asset will merge into this Security.

11. MORTGAGOR FAILURE TO COMPLY

If the Mortgagor fails to perform its obligations in this Deed and in particular fails to maintain and operate the Vessel in accordance with Clauses 8(a), 8(b) and 8(c) and fails to pay and discharge or procure the payment and discharge of the debts and liabilities Incurred by the Mortgagor and the Vessel, the Security Agent may, on 10 Business Days' prior written notice to the Mortgagor, take all such action as it considers necessary to protect the security created by the Statutory Mortgage and this Deed and in particular (without in any way limiting the Security Agent's rights and powers) arrange for the Vessel to be surveyed and repaired and for the debts and liabilities incurred by the Mortgagor to be paid and discharged and the Mortgagor shall pay to the Security Agent on demand all amounts so paid or payable by the Security Agent.

12. WHEN SECURITY BECOMES ENFORCEABLE

12.1 Timing

This Security will become immediately enforceable upon the occurrence of a Declared Default.

12.2 Enforcement

After this Security has become enforceable, the Security Agent may in its absolute discretion enforce all or any part of this Security in any manner it sees fit or as the Majority External Creditors direct.

13. ENFORCEMENT OF SECURITY

13.1 General

- (a) The power of sale and other powers conferred on a mortgage by law (including under Section 101 of the Act), as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable and the Security Agent and any Receiver appointed by the Security Agent shall forthwith be entitled at any time to exercise all the powers possessed by it as mortgagee and chargee of the Vessel (as conferred by law or by this Deed) and in particular:
 - (i) to take possession of the Vessel;
 - (ii) to navigate the Vessel to such places as the Security Agent may decide or detain or lay up the Vessel;
 - (iii) to discharge the master and crew of the Vessel and employ a new master and crew;

- (iv) to sell or dispose of the Vessel or any share therein with prior written notice to the Mortgagor and with or without the benefit of any charterparty or other contract of employment and free from any claim by the Mortgagor, by public auction or private contract in any part of the world and upon such terms as the Security Agent in its absolute discretion may determine (including deferred payment terms), with power to postpone any such sale and without being answerable for any loss occasioned by such sale or resulting from the postponement thereof and with the power, where the Security Agent purchases the Vessel, to make payment of the sale price by making an equivalent reduction in the amount of the Secured Obligations. Upon any such sale the purchaser shall not be bound to see or enquire whether the Security Agent's power of sale has arisen and the sale shall be deemed to be within the power of the Security Agent. The receipt of the Security Agent or any Receiver for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of the sale and the purchaser shall have the protection provided by Sections 104 and 107 of the Law of Property Act 1925;
- (v) to require that all policies, controls, certificates of entry and other records relating to the Marine Insurances (including details of any correspondence concerning outstanding claims) be delivered forthwith to such adjusters and/or brokers and/or other insurers as the Security Agent may nominate;
- (vi) to collect, recover, compromise and give good discharge for, all claims outstanding or thereafter arising under the Marine Insurances or against any charterer or any other third party, and to take over or institute (if necessary using the name of the Mortgagor) all such proceedings in connection therewith as the Security Agent in its absolute discretion thinks fit and in the case of the Marine Insurances, to permit the brokers through whom the collection or recovery is effected to charge the brokerage therefore;
- (vii) to manage, insure, maintain and repair the Vessel, and to employ, sail or lay up the Vessel in such manner and for such period as the Security Agent, in its absolute discretion, deems expedient and without being responsible for any loss thereby incurred;
- (viii) to recover from the Mortgagor on demand all Expenses incurred or paid by the Security Agent acting as Security Agent under this Deed and the Statutory Mortgage;
- (ix) to defend, discharge, compound, release or compromise claims against the Mortgagor in respect of the Vessel or any other Charged Property which are or may be enforceable by proceedings against the Vessel;
- (x) to appoint a Receiver of the Vessel and/or the Earnings and/or the Requisition Compensation or to operate the Vessel itself or to appoint a manager of the Vessel in each case upon such terms as the Security Agent shall in its absolute discretion think fit; and
- (xi) to do all such other acts and things as may be considered by the Security Agent or the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation,

improvement or realisation of the Vessel, Earnings and Requisition Compensation.

- (b) For the purposes of all powers applied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (c) Any restriction imposed by law on the power of sale (including under Section 103 of the Act) and or the right of a mortgage to consolidate mortgages (including under Section 93 of the Act) do not apply to this Security.
- (d) The Mortgagor undertakes at the request of the Security Agent following a Declared Default to move the Vessel to a harbour or anchorage nominated by the Security Agent.
- (e) For the avoidance of doubt, if the Security Agent takes any action or enters into or completes any transaction pursuant to this Clause 13.1 after a Declared Default has been remedied, that action or transaction shall not be affected by the remedying of the Declared Default.

13.2 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

13.3 Privileges

Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by law (including the Act) on mortgagees and receivers duly appointed under any laws (including the Act), except that Section 103 of the Act does not apply.

13.4 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due under the Debt Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

13.5 Redemption of prior Security Interests

- (a) At any time after this Security has become enforceable, the Security Agent may:
 - (i) redeem any prior Security against any Security Asset; and/or
 - (ii) procure the transfer of that Security to itself; and/or

- (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer, any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Mortgagor.
- (b) The Mortgagor must pay to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest.

13.6 Contingencies

If this Security is enforced at a time when no amount is due under the Debt Documents but at a time when amounts may or will become due, the Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into such number of suspense accounts as it considers appropriate.

13.7 Other rights

Upon a Declared Default (which is continuing) the Security Agent shall become forthwith entitled, as and when it may see fit, to notify the Insurers that all claims payable under the Marine Insurances shall be paid to the Security Agent or to its order.

14. RECEIVER

14.1 Appointment of Receiver

- (a) Except as provided below, the Security Agent may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
 - (i) this Security has become enforceable; or
 - (ii) the Mortgagor so requests the Security Agent in writing at any time.
- (b) Any appointment under paragraph (a) above may be made by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under Section 109(1) of the Act) does not apply to this Deed or the Statutory Mortgage.
- (d) The Security Agent is not entitled to appoint a Receiver solely as a result of the Mortgagor's obtaining a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

14.2 Removal

The Security Agent may by writing under its hand remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver who has resigned or whose appointment may for any reason have terminated.

14.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it and the maximum rate specified in Section 109(6) of the Act will not apply.

14.4 Agent of the Mortgagor

- (a) A Receiver will be deemed to be the agent of the Mortgagor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act until the Mortgagor goes into liquidation, after which time, such Receiver shall act as principal and shall not become agent of the Security Agent or any other Beneficiary. The Mortgagor alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver, for costs and liabilities incurred by a Receiver and for a Receiver's remuneration.
- (b) No Secured Party will incur any liability (either to the Mortgagor or to any other person) by reason of the appointment of a Receiver, any act or omission of a Receiver or for any other reason.

14.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power, benefit, protection or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

15. POWERS OF RECEIVER

15.1 General

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law, this includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

15.2 Possession

A Receiver may take immediate possession, actual or constructive, of, get in and collect any Security Asset. This includes the right to order the master of the Vessel to proceed immediately at the Mortgagor's risk and expense to a port or anchorage nominated by the Receiver.

15.3 Employees

- (a) A Receiver may appoint and discharge managers, masters and crew of the Vessel upon such terms as to remuneration or otherwise as he thinks fit.
- (b) A Receiver may discharge any person appointed by the Mortgagor.

15.4 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset (with or without the benefit of any charterparty or other contract) by public auction or private contract at any place in the world with or without advertisement

or notice to the Mortgagor and generally in any manner and on any terms which he thinks fit.

- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.
- (c) A Receiver or any Secured Party may purchase any Security Asset at public auction.

15.5 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Mortgagor or relating in any way to any Security Asset including, without limitation, claims in respect of the Vessel which have given or may give rise to a charge, lien or arrest of the Vessel or which may be enforceable by proceedings against the Vessel.

15.6 Legal Action

A Receiver may take over, bring, prosecute, enforce, settle, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit including, without limitation, any which have given or may give rise to any charge or lien on or arrest of the Vessel or which may be enforceable by proceeding against the Vessel.

15.7 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

15.8 Delegation

A Receiver may delegate his powers in accordance with this Deed.

15.9 Protection of assets

A Receiver may:

- (a) effect any repair, maintain or renew any part of the Vessel, reclass the Vessel and do any other act which the Mortgagor might do in the ordinary conduct of its business to protect or improve any Security Asset;
- (b) manage, insure, lease, charter, operate or otherwise use the Vessel, put the Vessel through a survey, hold up or lay up the Vessel,

in any way on any terms and for any period as he thinks fit, without liability to the Mortgagor for costs, and accounting only for the net proceeds (if any).

15.10 Other powers

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset; and
- (c) use the name of the Mortgagor for any of the above purposes.

16. APPLICATION OF PROCEEDS

- (a) Any moneys received in respect of the Security Assets by the Security Agent or any Receiver after this Security has become enforceable must be applied in the order of priority in accordance with the Intercreditor Agreement.
- (b) This Clause is subject to the payment of any claims having priority over this Security. This Clause does not prejudice the right of any Secured Party to recover any shortfall from the Mortgagor.

17. EXPENSES AND INDEMNITY

The provisions of clause 22 (*Costs and expenses*) of the Intercreditor Agreement are incorporated into this agreement *mutatis mutandis*.

18. DELEGATION

18.1 Power of Attorney

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

18.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) which the Security Agent or any Receiver may think fit.

18.3 Liability

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Mortgagor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

19. POWER OF ATTORNEY

- (a) The Mortgagor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and their respective delegates and sub-delegates to be its attorney with the full power and authority of the Mortgagor to execute, deliver and perfect all deeds, instruments and other documents in its name and otherwise on its behalf and to do or cause to be done all acts and things, in each case, which may be required or which any attorney in its absolute discretion may deem necessary for carrying out any obligation of the Mortgagor under or pursuant to this Deed or, on and from the date following the occurrence of a Declared Default, generally for enabling the Security Agent or any Receiver to exercise the respective powers conferred on them under this Deed or by law.

- (b) The Mortgagor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause.

20. THIRD PARTY RIGHTS

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Third Parties Act to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- (c) Any Secured Party that is not a Party may enforce and enjoy the benefit of any Clause which expressly confers rights on it, subject to paragraph (b) above and the provisions of the Third Parties Act.

21. MISCELLANEOUS

21.1 Tacking

Each Lender must perform its obligations under the Facilities Agreement (including any obligation to make available further advances).

21.2 New Accounts

- (a) If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with the Mortgagor.
- (b) If that Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Obligation.

22. COUNTERPARTS

This Deed may be executed in counterparts and all of these counterparts taken together shall constitute one and the same instrument.

23. RELEASE

At the end of the Security Period, the Secured Parties must, at the request and cost of the Mortgagor, take whatever action is necessary to release the Security Assets from this Security.

24. GOVERNING LAW

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

25. JURISDICTION

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence,

validity or termination of this Deed or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Deed (a "**Dispute**").

- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no such Party will argue to the contrary.
- (c) Notwithstanding paragraph (a) above, any Secured Party may take proceedings relating to a Dispute in any other courts with jurisdiction To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

THIS DEED has been entered into and executed as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1

Vessel

| Vessel | Official Number |
|-----------|-----------------|
| Red Eagle | 728755 |

SCHEDULE 2

Form of Notice of Assignment - Insurances

(for attachment by way of endorsement to the insurance policies)

To [Insurer]

Copy [Security Agent]

[Date]

Dear Sirs,

We, [] the owner of "[]" (the "**Vessel**") HEREBY GIVE NOTICE that pursuant to a deed of covenant (the "**Deed of Covenant**") dated [] and made by us in favour of [] acting through its office at [] as agent and security agent for the Secured Parties (as defined in the Deed of Covenant) (the "**Security Agent**"), we assigned to the Security Agent all of our rights in and to all Marine Insurances (as defined in the Deed of Covenant) in respect of the Vessel (the "**Insurances**"). This includes, without limitation, all monies payable and to become payable by way of claims under the Insurances and return of premiums and other benefits of whatever nature relating to the Insurances.

We confirm that:

- (a) we will remain liable to perform all the obligations assumed by us under the Insurances; and
- (b) none of the Security Agent, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Insurances.

We will also remain entitled to exercise all of our rights under the Insurances and you should continue to give notices under the Insurances to us, unless and until you receive notice from the Security Agent to the contrary stating that the security has become enforceable. In this event, unless the Security Agent otherwise agrees in writing:

- (a) all amounts payable to us under the Insurances must be paid to the Security Agent; and
- (b) any of our rights in connection with those amounts will be exercisable by, and notices must be given to, the Security Agent or as it directs.

The instructions in this letter may not be revoked or amended without the prior written consent of the Security Agent.

Please note on the relevant contracts the Security Agent's interest as loss payee and assignee accordingly and send to the Security Agent at [***] with a copy to ourselves the attached acknowledgement confirming your agreement to the above.

We acknowledge that you may comply with the instructions in this letter without any further permission from us or enquiry by you.

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

Mortgagor

EXECUTED By [***]

)
)
)

Director

SCHEDULE 3

Form of loss payee clause

Under a deed of covenant (the "**Deed of Covenant**") dated [] made by [*insert name of Mortgagor*] (the "**Assignor**") in favour of [SECURITY AGENT] (the "**Security Agent**"), the Assignor assigned by way of security to the Security Agent all of its rights in respect of all insurances of [*insert name of Vessel (OFFICIAL NUMBER [•])*] (the "**Vessel**") including this policy and all benefits of this policy, including all claims of any nature (including return of premiums) under this policy

IT IS AGREED that:

- (a) the proceeds of insurance in respect of all other losses will be paid to the Assignor or its order unless and until the relevant underwriter or insurer receives notice from the Security Agent stating that the security under the Deed of Covenant has become enforceable, in which case those proceeds must be paid to the Security Agent; and
- (b) in the event of any non-payment of premium when due (following expiry of any applicable grace period) the underwriters or insurers undertake not to exercise any right of cancellation without giving:
 - (i) fourteen (14) days' prior written notice of the cancellation to the Security Agent; and
 - (ii) an opportunity to the Security Agent to pay any unpaid premiums.

Form of Loss Payee Clause for entry on certificate of entry of Protection and Indemnity Association:

Protection and Indemnity

Payment of any recovery the Member is entitled to make out of the funds of the Association in respect of any liability, costs or expenses incurred by him shall be made to the Member or to his order unless and until the Association receives notice from [*insert Security Agent*], the first mortgagees, that the Members are in default under the Mortgage, in which event all recoveries shall thereafter be paid to the Mortgagees or their order, provided always that no liability whatsoever shall attach to the Association, its Managers or their Agents for failure to comply with the latter obligation until after the expiry of two clear business days from the receipt of such notice.

SCHEDULE 4

Form of Undertaking to be delivered by association

To [Security Agent]

Copy [Owner]

[Date]

Dears Sirs,

[] (the "**Vessel**"), Owners [name of entered member and owner] (the "**Owner**").

We acknowledge receipt of a letter from [OWNER] giving notice of the assignment to you of the insurances on the Vessel. So far as this Association is concerned, the Managers do not consent to such assignment for the purposes of Rule [43] other than to give efficacy to the loss payable clause set out below and subject always to the Managers' right in settling any claim presented by the assignee to deduct or retain such amount as the Managers may then estimate to be sufficient to discharge the assignor's liabilities (if any) to the Association existing at the time of the assignment or likely to accrue thereafter.

We do confirm, however, that the Vessel is entered in this Association for protection and indemnity risks on the terms and conditions set out or to be set out in the certificate of entry. Furthermore, in consideration of your agreeing to the entry or continuing entry of the above ship in this Association, the Managers agree:

- (a) that the Owner will not cease to be insured by the Association in respect of the Vessel by reason of such assignment (see Rule [46 2A]); and
- (b) that, notwithstanding that the Vessel is mortgaged to you and that no undertaking or guarantee has been given to the Association to pay all contributions due in respect of the Vessel, the Owner does not cease to be insured by reason of the operation of [Rule 46 2B].

It is further agreed that the following loss payable clause will be included in the certificate of entry

"Payment of any recovery the Owner is entitled to make out of the funds of the Association in respect of any liability, costs or expenses incurred by the Owner shall be made to the Owner or to its order unless and until the Association receives notice from [SECURITY AGENT] that the Owner is in default under the Mortgage, in which event all recoveries will thereafter be paid to [SECURITY AGENT] or to its order, provided always that no liability whatsoever will attach to the Association, its managers or their agents for failure to comply with the latter obligation until after the expiry of two clear business days from the receipt of such notice"

The Association undertakes

- (c) to inform you if the Association gives the Owner of the Vessel notice under Rule [45] that its insurance in the Association in respect of the Vessel is to cease at the end of the then current policy year;
- (d) to give you fourteen (14) days' prior written notice of the Association's intention to cancel the insurance of the Owner by reason of its failure to pay when due and demanded any sum due from it to the Association.

Yours faithfully,

Association Managers

SIGNATORIES

Mortgagor

EXECUTED as a DEED By)
Southampton Isle of Wight and South)
of England Royal Mail Steam Packet)
Company Limited)



Director

Witness' signature



Witness' address

ALLEN & OVERY LLP
ONE BISHOPS SQUARE
LONDON E1 6AD
www.allenoverly.com

Security Agent

EXECUTED as a DEED
by and on behalf of ~~RBC~~ EUROPE LIMITED
acting by: [REDACTED]



JOHNSON TSE
AUTHORISED SIGNATORY

In the presence of [REDACTED]

Wain Kila

| |
|--------------------|
| RBC EUROPE LIMITED |
| GROUND FLOOR |
| THAMES COURT |
| ONE QUEENHITHE |
| LONDON EC4V 3DQ |

Signature of Authorised Signatory

Name of Authorised Signatory

Signature of witness

Name of witness

Address of witness