



Companies House

MR01(ef)

Registration of a Charge

Company name: **ATLAS NAVIGATION COMPANY LIMITED**

Company number: **02984986**



X2E7HL94

Received for Electronic Filing: **06/08/2013**

Details of Charge

Date of creation: **30/07/2013**

Charge code: **0298 4986 0046**

Persons entitled: **COOPERATIEVE RABOBANK ROTTERDAM U.A.**

Brief description: **ONE (1) SEAGOING MULTI-PURPOSE VESSEL KNOWN AS M.V. "VELOX" WITH IMO NUMBER 9224104. THIS CHARGE WILL CREATE A FIXED CHARGE OVER M.V. "VELOX".**

Contains fixed charge(s).

Notification of addition to or amendment of charge.

Authentication of Form

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

Authentication of Instrument

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



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2984986

Charge code: 0298 4986 0046

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th July 2013 and created by ATLAS NAVIGATION COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 6th August 2013 .

Given at Companies House, Cardiff on 7th August 2013



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

CONFIDENTIAL

Dated *30 July* 2013

**DEED OF COVENANT
relating to m.v. "VELOX (ex FLINTERLINGE)"**

ATLAS NAVIGATION COMPANY LIMITED (1)

and

COÖPERATIEVE RABOBANK ROTTERDAM U.A. (2)

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.

Sign & Dated *Norton Rose Fulbright*
LLP

Norton Rose Fulbright LLP
3 More London Riverside
London SE1 2AQ

06.08.13

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THIS DEED OF COVENANT is made the day of *30 July* 2013 BETWEEN:

- (1) **ATLAS NAVIGATION COMPANY LIMITED** a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (the **Owner**);
- (2) **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** a cooperative association established in and under the laws of The Netherlands and having its seat and registered office at Rotterdam, The Netherlands and for the purposes of this Deed acting through its offices at Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**).

WHEREAS:

- (1) the Owner is, the sole, absolute and unencumbered, legal and beneficial owner of sixty-four sixty-fourth shares in the Ship described in clause 1.2;
- (2) by a loan agreement dated 25 July 2013 made between the Owner (therein referred to as the Borrower) and the Mortgagee (therein referred to as the **Lender**), the Mortgagee agreed to make available to the Owner a loan of €1,750,000 to assist the Owner in financing the acquisition of the Ship upon the terms and conditions therein contained (the **Loan Agreement**);
- (3) by a current account agreement (Rekening-Courant Overeenkomst) dated 15/23 July 2013 and made between the Owner and the Mortgagee, the Owner and the Mortgagee agreed to regulate the terms of the Current Account (as therein defined) (the **Current Account Agreement**);
- (4) as security for its obligations under (inter alia) the Loan Agreement and the Current Account Agreement the Owner has executed in favour of the Mortgagee a statutory mortgage of even date herewith in account current form constituting a first priority mortgage of sixty-four shares in the said Ship registered in the ownership the Owner; and
- (5) this Deed is supplemental to the Mortgage and to the security thereby created but shall nonetheless continue in full force and effect notwithstanding any discharge of the Mortgage.

NOW THIS DEED WITNESSES AND IT IS HEREBY AGREED as follows:

1 Definitions

Defined expressions

- 1.1 Words and expressions defined in the Loan Agreement shall, unless the context otherwise requires or unless otherwise defined herein, have the same meanings when used in this Deed.

Definitions

- 1.2 In this Deed, unless the context otherwise requires:

Approved Brokers means such firm of insurance brokers, appointed by the Owner, as may from time to time be approved in writing by the Mortgagee for the purposes of this Deed;

Classification means the classification 100 A5 E with the Classification Society or such other classification as the Mortgagee shall, at the request of the Owner, have agreed in writing shall be treated as the Classification in relation to the Ship for the

purposes of the Security Documents;

Classification Society means Germanischer Lloyd or such other classification society which is a member of the International Association of Classification Societies and which the Mortgagee shall, at the request of the Owner, have agreed in writing shall be treated as the Classification Society for the purposes of the Security Documents;

Collateral Instruments means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and other assurances against financial loss and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any indebtedness or liabilities of the Owner or any other person liable and includes any documents or instruments creating or evidencing a mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, trust arrangement or security interest of any kind;

Current Account Agreement means the agreement dated 15/23 July 2013 mentioned in recital (3) hereto as the same may from time to time be amended by the parties thereto;

DoC means a document of compliance issued to the Operator in accordance with the ISM Code;

Earnings means all moneys whatsoever from time to time due or payable to the Owner arising out of the use or operation of the Ship, including (but without limitation) all freight, hire and passage moneys, income arising under pooling arrangements, compensation payable to the Owner in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty, contract or other arrangement in respect of the employment of the Ship or otherwise in connection therewith;

Expenses means the aggregate at any relevant time (to the extent that the same have not been received or recovered by the Mortgagee 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 Mortgagee or any Receiver in connection with the exercise of the powers referred to in or granted by this Deed or otherwise payable by the Owner in accordance with clause 11.1; 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 Mortgagee 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 of interest referred to in clause 7.1 of the Loan Agreement;

Fleet Vessel means the Ship and any other vessel owned, operated, managed or crewed by the Owner or any of its Related Companies;

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

IAPPC means the "international air pollutant prevention certificate" required to be issued in respect of the Ship in accordance with the Protocol of 1997, amending the International Convention for the Prevention of Pollution from Ships, 1973 (as

amended);

Insurances means all policies and contracts of insurance (which expression includes all entries of the Ship in a protection and indemnity or war risks association) which are from time to time during the Security Period in place or taken out or entered into by or for the benefit of the Owner (whether in the sole name of the Owner or in the joint name of the Owner and the Mortgagee) in respect of the Ship and its Earnings or otherwise howsoever in connection with the Ship and all benefits thereof (including claims of whatsoever nature and return of premiums);

Loan Agreement means the agreement dated *25 July* 2013 mentioned in recital (2) hereto as the same may from time to time be amended by the parties thereto;

Loss Payable Clauses means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance documents, such Loss Payable Clauses to be in the forms set out in Schedule 1, or in such other forms as may from time to time be agreed in writing by the Mortgagee;

Major Casualty Amount means €100,000 (or the equivalent in any other currency);

Mortgage means the statutory mortgage mentioned in recital (5);

Mortgaged Property means:

- (a) the Ship;
- (b) the Insurances;
- (c) the Earnings; and
- (d) any Requisition Compensation;

Mortgagee includes the successors and assignees of the Mortgagee;

Notice of Assignment of Insurances means a notice of assignment in the form set out in Schedule 2, or in such other form as may from time to time be required or agreed in writing by the Mortgagee;

Operator means any person who is from time to time during the Security Period concerned in the operation of the Ship and falls within the definition of **Company** set out in rule 1.1.2 of the ISM Code;

Outstanding Indebtedness means the aggregate of the Loan and all other sums actually or contingently owing to the Mortgagee by the Owner pursuant to the Loan Agreement, the Current Account Agreement and all interest accrued and accruing thereon, the Expenses and all other sums of money from time to time owing by the Owner to the Mortgagee, whether actually or contingently, under or pursuant to the Security Documents or any of them;

Owner includes the successors in title of the Owner;

Permitted Liens means any lien on the Ship for master's, officer's or crew's wages outstanding in the ordinary course of trading, any lien for salvage and any ship repairer's or outfitter's possessory lien for a sum not (except with the prior written consent of the Mortgagee) exceeding the Major Casualty Amount;

Port of Registry means the port of Faversham or such other port of registry in the

United Kingdom approved in writing by the Mortgagee at which the Ship is, or is to be registered on, or at any relevant time after, the date hereof;

Receiver means any receiver and/or manager appointed pursuant to clause 8.2;

Related Company of a person means any Subsidiary of such person, any company or other entity of which such person is a Subsidiary and any Subsidiary of any such company or entity;

Requisition Compensation means all sums of money or other compensation from time to time payable during the Security Period by reason of requisition for title or other compulsory acquisition of the Ship otherwise than by requisition for hire;

Security Documents means the Loan Agreement, the Current Account Agreement, the Corporate Guarantee, this Deed, the Mortgage and any other such document as is defined in the Loan Agreement as a Security Document or Transaction Document or as may have been or may hereafter be executed to guarantee and/or secure all or any part of the Loan, interest thereon, any other Outstanding Indebtedness and other moneys from time to time owing by the Owner pursuant to the Loan Agreement and/or the Current Account Agreement;

Security Period means the period commencing on the date hereof and terminating upon the payment of all moneys payable under the Security Documents and the discharge of all other obligations secured thereby;

Ship means the vessel "VELOX (ex. FLINTERLINGE)" registered as British ship with the Port of Registry in the name of the Owner under Official Number 736482 and IMO number 9224104 and includes any share or interest therein and its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether now owned or hereafter acquired and also any and all additions, improvements and replacements hereafter made in or to such vessel or any part thereof or in or to its equipment and appurtenances aforesaid;

Subsidiary of a person means any other person:

- (a) directly or indirectly controlled by such person; or
- (b) of whose dividends or distributions on ordinary voting share capital such person is entitled to receive more than 50%;

Taxes includes all present and future taxes, levies, imports, duties, fees or charges of whatever nature together with interest thereon and penalties in respect thereof and **Taxation** shall be construed accordingly;

Total Loss means:

- (a) the actual or constructive or compromised or arranged total loss of the Ship; or
- (b) the requisition for title or other compulsory acquisition of the Ship otherwise than by requisition for hire; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship by any government or by persons acting or purporting to act on behalf of any government, unless the Ship be released and restored to the Owner from such capture, seizure, arrest, detention or confiscation within 30 days after the occurrence thereof; and

United Kingdom means Great Britain and Northern Ireland.

Insurance terms

1.3 In clause 6.1(a):

- (a) excess risks means the proportion (if any) of claims for general average, salvage and salvage charges and under the ordinary collision clause not recoverable in consequence of the value at which the vessel is assessed for the purpose of such claims exceeding its insured value;
- (b) protection and indemnity risks means the usual risks (including oil pollution and freight, demurrage and defence cover) covered by a United Kingdom protection and indemnity association or a protection and indemnity association which is managed in London (including, without limitation, the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in such policies of clause 8 of the Institute Time Clauses (Hulls) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision); and
- (c) war risks includes those risks covered by the standard form of English marine policy with Institute War and Strikes Clauses Hulls - Time (1/11/95) attached or similar cover.

Headings

1.4 Clause headings and the table of contents are inserted for convenience of reference only and shall be ignored in the interpretation of this Deed.

Construction of certain terms

1.5 In this Deed, unless the context otherwise requires:

- (a) references to clauses and Schedules are to be construed as references to clauses of, and Schedules to, this Deed and references to this Deed include its Schedules;
- (b) references to (or to any specified provision of) this Deed or any other document shall be construed as references to this Deed, that provision or that document as in force for the time being and as amended in accordance with the terms thereof, or, as the case may be, with the agreement of the relevant parties and (where such consent is, by the terms of this Deed or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior written consent of the Mortgagee;
- (c) words importing the plural shall include the singular and vice versa;
- (d) references to a person shall be construed as references to an individual, firm, company, corporation, unincorporated body of persons or any State or any agency thereof;
- (e) where the context so admits, references to **assign** and **assigns** shall be read and construed so as to include references to **pledge** and **pledges**;
- (f) references to statutory provisions shall be construed as references to those provisions as replaced or amended or re-enacted from time to time; and

- (g) references to **control** of an entity means:
- (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (A) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of that entity; or
 - (B) appoint or remove all, or the majority, of the directors or other equivalent officers of that entity; or
 - (C) give directions with respect to the operating and financial policies of that entity with which the directors or other equivalent officers of that entity are obliged to comply; and/or
 - (ii) the holding beneficially of more than 50% of the issued share capital of that entity (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital) (and, for this purpose, any Lien over share capital shall be disregarded in determining the beneficial ownership of such share capital),

and **controlled** shall be construed accordingly.

Conflict with Loan Agreement

- 1.6 This Deed shall be read together with the Loan Agreement but in case of any conflict between the two instruments the provisions of the Loan Agreement shall prevail.

Contracts (Rights of Third Parties) Act 1999

- 1.7 No term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

2 Representations and Warranties

- 2.1 The Owner hereby represents and warrants to the Mortgagee that:
- (a) the Owner is the sole legal and beneficial owner of the Ship;
 - (b) the Ship is not subject to any charter which, if entered into after the date of this Deed, would have required the consent of the Mortgagee under clause 6.1(o) and there is no existing agreement or arrangement whereby the Earnings may be shared with any other person;
 - (c) it has appointed a "Representative Person" pursuant to the Merchant Shipping Acts and will maintain such appointment throughout the Security Period;
 - (d) neither the Mortgaged Property nor any part thereof is subject to any Lien, save as constituted by the Mortgage and this Deed or otherwise permitted by the terms of this Deed;
 - (e) all applicable Environmental Laws and Environmental Approvals relating to the Ship, its operation and management and the business of the Owner (as now conducted and as reasonably anticipated may be conducted in the future) have been complied with;
 - (f) no Environmental Claim has been made or threatened against the Owner, the

Approved Manager or otherwise in connection with the Ship; and

(g) no Environmental Incident has occurred.

3 Covenants to pay principal, interest and other money

3.1 In consideration of the advance by the Mortgagee to the Owner on or before or after the date hereof of the total principal sum of €1,750,000 (receipt of which sum the Owner hereby acknowledge) in accordance with the provisions of the Loan Agreement and for the obligations of the Mortgagee under the Current Account Agreement, the Owner hereby covenant with the Mortgagee:

- (a) to repay the Loan by the instalments and on the dates referred to and otherwise in the manner and upon the terms set out in the Loan Agreement;
- (b) to discharge any liabilities to the Mortgagee under the Current Account Agreement;
- (c) to pay interest on the Loan, the Existing Loan and on any overdue interest on other moneys payable under the Loan Agreement and the Current Account Agreement at the rate or rates from time to time applicable thereto in the manner and upon the terms set out in the Loan Agreement, the Existing Loan Agreement and the Current Account Agreement; and
- (d) to pay all other moneys payable by the Owner under the Security Documents or any of them at the times and in the manner therein specified.

4 Mortgage and Assignment of the Mortgaged Property

Mortgage and Assignment

4.1 By way of security for payment of the Outstanding Indebtedness the Owner with full title guarantee hereby mortgage and charge to and in favour of the Mortgagee all its rights, title and interest present and future in and to the Mortgaged Property and, without prejudice to the generality of the foregoing, hereby assign and agree to assign to the Mortgagee all its rights, title and interest in and to the Earnings, the Insurances, any Requisition Compensation and all its benefits and interests present and future therein Provided however that:

(a) **Earnings**

the Earnings shall be payable to the Owner until such time as an Event of Default shall occur and the Mortgagee shall direct to the contrary whereupon the Owner shall forthwith, and the Mortgagee may at any time thereafter, instruct the persons from whom the Earnings are then payable to pay the same to the Mortgagee or as it may direct and any Earnings then in the hands of the Owner brokers or other agents shall be deemed to have been received by them for the use and on behalf of the Mortgagee;

(b) **Insurances**

unless and until an Event of Default shall occur (whereupon all insurance recoveries, other than any moneys payable under any loss of earnings insurance, shall be receivable by the Mortgagee and applied in accordance with clause 9.1):

- (i) any moneys payable under the Insurances shall be payable in accordance with the terms of the relevant Loss Payable Clause and the Mortgagee will not in the meantime give any notification to the contrary to the insurers as

contemplated by the Loss Payable Clauses;

- (ii) any insurance moneys received by the Mortgagee in respect of any major casualty (as specified in the relevant Loss Payable Clause) shall, unless prior to receipt or whilst such moneys are in the hands of the Mortgagee there shall have occurred an Event of Default (whereupon such insurance moneys shall be applied in accordance with clause 9.1), be paid over to the Owner upon the Owner furnishing evidence satisfactory to the Mortgagee that all loss and damage resulting from such casualty has been properly made good and repaired, and that all repair accounts and other liabilities whatsoever in connection with the casualty have been fully paid and discharged by the Owner provided always however that the insurers with whom the fire and usual marine risks insurances are effected may, in the case of a major casualty, and with the previous consent in writing of the Mortgagee, make payment on account of repairs in the course of being effected; and
- (iii) any moneys payable under any loss of earnings insurance shall be payable in accordance with the terms of the relevant Loss Payable Clause and shall be subject to such provisions of this clause 4 as shall apply to Earnings and the Mortgagee will not give any notification to the insurers as contemplated in such Loss Payable Clause unless and until the Mortgagee shall have become entitled under clause 4.1(a) to direct that the Earnings be paid to the Mortgagee.

Notice

- 4.2 The Owner hereby covenants and undertakes with the Mortgagee that it will from time to time upon the written request of the Mortgagee give written notice (in such form as the Mortgagee shall reasonably require) of the assignment herein contained to the persons from whom any part of the Mortgaged Property is or may be due.

Use of Owner's name

- 4.3 The Owner covenants and undertakes with the Mortgagee to do or permit to be done each and every act or thing which the Mortgagee may from time to time require to be done for the purpose of enforcing the Mortgagee's rights under this Deed and to allow its name to be used as and when required by the Mortgagee for that purpose.

Reassignment

- 4.4 Upon payment and discharge in full to the satisfaction of the Mortgagee of the Outstanding Indebtedness the Mortgagee shall at the request and cost of the Owner, re-assign the Earnings, the Insurances and any Requisition Compensation to the Owner or as it may direct.

5 Continuing security and other matters

Continuing security

- 5.1 The security created by the Mortgage and this Deed shall:
 - (a) be held by the Mortgagee as a continuing security for the payment of the Outstanding Indebtedness and the performance and observance of and compliance with all of the covenants, terms and conditions contained in the Security Documents, express or implied and the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured (or by any settlement of accounts between the Owner or any other person who may be liable to the Mortgagee in respect of the

Outstanding Indebtedness or any part thereof) and shall remain in full force and effect until the Outstanding Indebtedness has been discharged and satisfied in full (which expression shall not embrace payment of a dividend in liquidation or bankruptcy of less than 100%);

- (b) be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Mortgagee without prior recourse to, the security created by any other of the Security Documents or by any present or future Collateral Instruments, right or remedy held by or available to the Mortgagee or any right or remedy of the Mortgagee thereunder;
- (c) not be in any way prejudiced or affected by the existence of any of the other Security Documents or any such Collateral Instrument, rights or remedies or by the same becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Mortgagee dealing with, exchanging, varying or failing to perfect or enforce any of the same, or giving time for payment or performance or indulgence or compounding with any other person liable; and
- (d) not in any way be prejudiced or affected by any change in the constitution of, or any amalgamation or reconstruction of the Owner, the Mortgagee or any other person or by any legal limitation, disability, incapacity or other circumstances relating to the Owner or any other person, whether or not known to the Mortgagee, by any invalidity in or irregularity or unenforceability of the obligations of the Owner or any other person under the Loan Agreement and/or the Current Account Agreement or any of the other Security Documents or otherwise and so that in the event that any obligation or purported obligation of the Owner or any other person which, if enforceable or valid or continuing, would be secured by the Mortgage and this Deed is or becomes wholly or in part unenforceable or invalid or terminated for any reason whatsoever, the Owner will keep the Mortgagee fully indemnified against any loss suffered by the Mortgagee as a result of any failure by the Owner or such other party to perform any such obligation or purported obligation.

Rights additional

- 5.2 All the rights, remedies and powers vested in the Mortgagee hereunder shall be in addition to and not a limitation of any and every other right, power or remedy vested in the Mortgagee under the Loan Agreement, the Current Account Agreement, this Deed, the Mortgage, the other Security Documents or any Collateral Instrument or at law and that all the powers so vested in the Mortgagee may be exercised from time to time and as often as the Mortgagee may deem expedient.

No enquiry

- 5.3 Neither the Mortgagee nor any Receiver shall be obliged to make any enquiry as to the nature or sufficiency of any payment received by it under either Mortgage and/or this Deed or to make any claim or take any action to collect any moneys hereby assigned or to enforce any rights or benefits hereby assigned to the Mortgagee or to which the Mortgagee may at any time be entitled under either Mortgage and/or this Deed.

Obligations of Owner and Mortgagee

- 5.4 The Owner shall remain liable to perform all the obligations assumed by it in relation to the Mortgaged Property and the Mortgagee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Owner to perform its obligations in respect thereof.

Discharge of Mortgage

- 5.5 Notwithstanding that this Deed is expressed to be supplemental to the Mortgage it shall

continue in full force and effect after any discharge of the Mortgage.

Suspense Account

- 5.6 Any money received in connection with Deed may be placed to the credit of a suspense account or may be applied in or towards satisfaction of the Outstanding Indebtedness or distributed in accordance with clause 9.1 of this Deed, as the Mortgagee may from time to time conclusively determine in its absolute discretion.

6 Covenants

- 6.1 The Owner hereby covenants with the Mortgagee and undertakes throughout the Security Period:

(a) Insurance

- (i) to insure and keep the Ship insured free of cost and expense to the Mortgagee and in the joint names of the Owner or, if so required by the Mortgagee, in the joint names of the Owner and the Mortgagee (but without liability on the part of the Mortgagee for premiums or calls):
 - (A) against fire and usual marine risks (including excess risks) and war risks (including blocking and trapping), on an agreed value basis in such amounts and upon such terms as shall from time to time be approved in writing by the Mortgagee;
 - (B) against protection and indemnity risks in an amount in respect of which cover is available for ships of the same type, size, age and flag as the Ship (including the maximum cover for pollution risks and a freight demurrage and defence cover) for the full value and tonnage of the Ship (as approved in writing by the Mortgagee); and
 - (C) in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner of the Ship,

and compensate the Mortgagee for the premium of a mortgagee's interest insurance if the Mortgagee decides to take out such an insurance for an amount at least equal to the aggregate of the original amount of the Loan made available pursuant to the Loan Agreement;

(ii) Approved Brokers, insurers and associations

to effect and keep effected the insurances aforesaid in such amounts and in such currency as the Mortgagee may from time to time approve and through the Approved Brokers and with such insurance companies and/or underwriters as shall from time to time be approved in writing by the Mortgagee; provided however that the insurances against war risks and protection and indemnity risks may be effected by the entry of the Ship with such war risks and protection and indemnity risks associations as shall from time to time be approved in writing by the Mortgagee;

(iii) Fleet Liens, set-off and cancellation

if any of the insurances referred to in clause 6.1(a)(i) form part of a fleet cover, to procure that the Approved Brokers shall undertake to the Mortgagee that they shall neither set off against any claims in respect of

the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurances, and shall undertake to issue a separate policy in respect of the Ship if and when so requested by the Mortgagee;

(iv) **Payment of premiums and calls**

punctually to pay all premiums, calls, contributions or other sums payable in respect of all such insurances and to produce all relevant receipts or other evidence of payment when so required by the Mortgagee;

(v) **Renewal**

at least 14 days before the relevant policies, contracts or entries expire, to notify the Mortgagee of the names of the brokers and/or the war risks and protection and indemnity risks associations proposed to be employed by the Owner or any other party for the purposes of the renewal of such insurances and of the amounts in which such insurances are proposed to be renewed and the risks to be covered and, subject to compliance with any requirements of the Mortgagee pursuant to this clause 6.1(a), to procure that appropriate instructions for the renewal of such insurances on the terms so specified are given to the Approved Brokers and/or to the approved war risks and protection and indemnity risks associations at least ten days before the relevant policies, contracts or entries expire, and that the Approved Brokers and/or the approved war risks and protection and indemnity risks associations will at least seven days (or within such shorter period as the Mortgagee may from time to time agree) before such expiry confirm in writing to the Mortgagee as and when such renewals have been effected in accordance with the instructions so given;

(vi) **Guarantees**

to arrange for the execution and delivery of such guarantees or indemnities as may from time to time be required by any protection and indemnity or war risks association;

(vii) **Hull Policy documents, notices, loss payable clauses and brokers' undertaking**

to deposit with the Approved Brokers (or procure the deposit of) all slips, cover notes, policies, certificates of entry or other instruments of insurance from time to time issued in connection with such of the insurances referred to in clause 6.1(a)(i) as are effected through the Approved Brokers and procure that the interest of the Mortgagee shall be endorsed thereon by incorporation of the relevant Loss Payable Clause and by means of a Notice of Assignment of Insurances (signed by the Owner and by any other assured who shall have assigned its interest in the Insurances to the Mortgagee) and that the Mortgagee shall be furnished with pro forma copies thereof and a letter or letters of undertaking from the Approved Brokers in such form as shall from time to time be required by the Mortgagee;

(viii) **Associations' loss payable clauses, undertakings and certificates**

to procure that any protection and indemnity and/or war risks associations in which the Ship is for the time being entered shall endorse the relevant Loss Payable Clause on the relevant certificate of entry or policy and shall furnish the Mortgagee with a copy of such certificate of entry or policy and

a letter or letters of undertaking in such form as shall from time to time be required by the Mortgagee;

(ix) **Extent of cover and exclusions**

to take all necessary action and comply with all requirements which may from time to time be applicable to the Insurances (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) so as to ensure that the Insurances are not made subject to any exclusions or qualifications to which the Mortgagee has not given its prior written consent and are otherwise maintained on terms and conditions from time to time approved in writing by the Mortgagee;

(x) **Correspondence with brokers and associations**

to provide to the Mortgagee, at the time of each such communication, copies of all written communications between the Owner and the Approved Brokers and approved war risks and protection and indemnity associations which relate to compliance with requirements from time to time applicable to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls referred to in clause 6.1(a)(ix);

(xi) **Independent Report**

if so requested by the Mortgagee, but at the cost of the Owner, to furnish the Mortgagee from time to time with a detailed report signed by an independent firm of marine insurance brokers appointed by the Mortgagee dealing with the insurances maintained on the Ship and stating the opinion of such firm as to the adequacy thereof;

(xii) **Collection of Claims**

to do all things necessary and provide all documents, evidence and information to enable the Mortgagee to collect or recover any moneys which shall at any time become due in respect of the Insurances;

(xiii) **Employment of Ship**

not to employ the Ship or suffer the Ship to be employed otherwise than in conformity with the terms of the Insurances (including any warranties express or implied therein) without first obtaining the consent of the insurers to such employment and complying with such requirements as to extra premium or otherwise as the insurers may prescribe;

(xiv) **Application of Recoveries**

to apply all sums receivable under the Insurances which are paid to the Owner in accordance with the Loss Payable Clauses in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received;

PROVIDED ALWAYS THAT the Mortgagee shall be entitled to review the requirements of this clause 6.1(a) from time to time in order to take account of significant changes in circumstances after the date of this Deed (such changes in circumstances to include, without limitation, changes in the availability or the cost of insurance coverage). The Mortgagee may notify the Owner in writing from time to time of any proposed modification to the requirements of this clause 6.1(a) which it deems appropriate in the circumstances, and such modification shall take effect on and from the date it is notified

in writing to the Owner as an amendment to this clause 6.1(a) and shall bind the Owner accordingly;

(b) Ship's Name and Registration

- (i) not to change the name of the Ship;
- (ii) to keep the Ship registered as a British ship at the Port of Registry;
- (iii) not do or suffer to be done anything, or omit to do anything the doing or omission of which could or might result in such registration being forfeited or imperilled or which could or might result in the Ship being required to be registered otherwise than as a British ship at the Port of Registry;
- (iv) not to register the Ship or permit its registration under any other flag or at any other port without the prior written consent of the Mortgagee;
- (v) if the said registration of the Ship is for a limited period, to renew the registration of the Ship at least 45 days prior to the expiry of such registration and to provide evidence of such renewal to the Mortgagee at least 30 days prior to such expiry;

(c) Repair

to keep the Ship in a good and efficient state of repair and procure that all repairs to or replacement of any damaged, worn or lost parts or equipment are effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of the Ship;

(d) Modification; Removal of Parts; Equipment owned by third parties

not without the prior written consent of the Mortgagee to:

- (i) make any modification to the Ship in consequence of which its structure, type or performance characteristics could or might be materially altered or its value materially reduced; or
- (ii) remove any material part of the Ship or any equipment the value of which is such that its removal from the Ship would materially reduce the value of the Ship without replacing the same with equivalent parts or equipment which are owned by the Owner free from Liens; or
- (iii) install on the Ship any equipment owned by a third party which cannot be removed without causing damage to the structure or fabric of the Ship;

(e) Maintenance of class; compliance with regulations

to maintain the Classification of the Ship with the Classification Society and to comply with and ensure that the Ship at all times complies with the provisions of the Merchant Shipping Acts and all regulations and requirements (statutory or otherwise) from time to time applicable to vessels registered at the Port of Registry or otherwise applicable to the Ship;

(f) Surveys

to submit the Ship to continuous surveys and such periodical or other surveys as may be required for classification purposes and to supply to the Mortgagee copies of all survey reports issued in respect thereof;

(g) **Inspection**

to permit the Mortgagee by surveyors or other persons appointed by it for such purpose to board the Ship at all reasonable times for the purpose of inspecting it and to afford all proper facilities for such inspections and for this purpose to give the Mortgagee reasonable advance notice of any intended drydocking of the Ship (whether for the purpose of classification, survey or otherwise);

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

promptly pay and discharge 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 Ship, its Earnings or Insurances or any part thereof and, in the event of a writ or libel being filed against the Ship or its Earnings or Insurances or any part thereof, or of any of the same being arrested, attached or levied upon pursuant to legal process or purported legal process or in the event of detention of the Ship in exercise or purported exercise of any such lien or claim as aforesaid, to procure the release of the Ship, its Earnings and Insurances 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 as the circumstances may require;

(i) **Employment**

not to employ the Ship or permit its employment in any manner, trade or business which is forbidden by international law, or which is unlawful or illicit under the law of any relevant jurisdiction, or in carrying illicit or prohibited goods, *or in any manner whatsoever which may render the Ship liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanctions and, in the event of hostilities in any part of the world (whether war be declared or not), not to employ the Ship or permit its employment in carrying any contraband goods, or enter or trade to or to continue to trade in any zone which is declared a war zone by any government or by the Ship's war risks insurers unless the prior written consent of the Mortgagee is obtained and such special insurance cover as the Mortgagee may require shall have been effected by the Owner and at its expense;*

(j) **Information**

promptly to furnish the Mortgagee with all such information as it may from time to time require regarding the Ship, its employment, position and engagements, particulars of all towages and salvages, and copies of all charters and other contracts for its employment, or otherwise howsoever concerning the Ship;

(k) **Notification of certain events**

to notify the Mortgagee forthwith by facsimile thereafter confirmed by letter of:

- (i) any damage to the Ship requiring repairs the cost of which will or might exceed the Major Casualty Amount;
- (ii) any occurrence in consequence of which the Ship has or may become a Total Loss;
- (iii) any requisition of the Ship for hire;
- (iv) any requirement or recommendation made by any insurer or the Classification Society or by any competent authority which is not, or

cannot be, immediately complied with in accordance with its terms;

- (v) any arrest or detention of the Ship or any exercise or purported exercise of a lien or other claim on the Ship or the Earnings or Insurances or any part thereof;
- (vi) any petition or notice of meeting to consider any resolution to wind up the Owner (or any event analogous thereto under the laws of the place of its incorporation);
- (vii) the occurrence of any Event of Default;

(l) **Payment of outgoings and evidence of payments**

promptly to pay all tolls, dues and other outgoings whatsoever in respect of the Ship and its Earnings and Insurances and to keep proper books of account in respect of the Ship and its Earnings and, as and when the Mortgagee may so require, to make such books available for inspection on behalf of the Mortgagee, and to furnish satisfactory evidence that the wages and allotments and the insurance and pension contributions of the Master and crew are being promptly and regularly paid and that all deductions from crew's wages in respect of any applicable tax liability are being properly accounted for and that the Master has no claim for disbursements other than those incurred by him in the ordinary course of trading on the voyage then in progress;

(m) **Liens**

not without the prior written consent of the Mortgagee (and then only subject to such conditions as the Mortgagee may impose) to hypothecate, create or purport or agree to create or permit to arise or subsist any Lien (other than Permitted Liens) over or in respect of the Ship, any share or interest therein or in any other part of the Mortgaged Property otherwise than to or in favour of the Mortgagee;

(n) **Sale or other disposal**

not without the prior written consent of the Mortgagee (and then only subject to such conditions as the Mortgagee may impose) to sell, agree to sell, transfer, abandon or otherwise dispose of the Ship or any share or interest therein;

(o) **Chartering**

not without the prior written consent of the Mortgagee (which the Mortgagee shall have full liberty to withhold) and, if such consent is given, only subject to such conditions as the Mortgagee may impose, to let the Ship:

- (i) on demise charter for any period;
- (ii) by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained may exceed 12 months' duration;
- (iii) on terms whereby more than two months' hire (or the equivalent) is payable in advance;
- (iv) below the market rate prevailing at the time when the Ship is fixed or on any other than arms' length terms;

(p) **Sharing of Earnings**

not without the prior written consent of the Mortgagee (and then only subject to such conditions as the Mortgagee may impose) to enter into any agreement or arrangement whereby the Earnings may be shared with any other person;

(q) **Payment of Earnings**

to procure that the Earnings are paid to the Mortgagee at all times after the Mortgagee shall have directed pursuant to clause 4.1(a) that the same shall be no longer receivable by the Owner and that any Earnings which at the time such direction is given are in the hands of the Owner brokers or agents are duly accounted for and paid over to the Mortgagee forthwith on demand;

(r) **Repairers' Liens**

not without the previous consent in writing of the Mortgagee to put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed the Major Casualty Amount unless such person shall first have given to the Mortgagee and in terms satisfactory to it, a written undertaking not to exercise any lien on the Ship or the Earnings for the cost of such work or otherwise;

(s) **Manager**

not without the previous consent in writing of the Mortgagee (and then only on and subject to such terms as the Mortgagee may agree) to appoint any manager of the Ship other than the Approved Manager;

(t) **Notice of Mortgage**

to place and at all times and places to retain a properly certified copy of each Mortgage and this Deed (which shall form part of the Ship's documents) on board the Ship with its papers and cause such certified copy of the Mortgage and this Deed to be exhibited to any and all persons having business with the Ship which might create or imply any commitment or encumbrance whatsoever on or in respect of the Ship (other than a lien for crew's wages and salvage) and to any representative of the Mortgagee and to place and keep prominently displayed in the navigation room and in the Master's cabin of the Ship a framed printed notice in plain type reading as follows:

"NOTICE OF MORTGAGE

This Ship is subject to a mortgage and a deed of covenant in favour of **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** acting through its branch at Blaak 333, 3011 GB Rotterdam, The Netherlands. Under the said mortgage and deed of covenant neither the Owner nor any charterer nor the Master of this Ship has any right, power or authority to create, incur or permit to be imposed upon this Ship 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 Owner nor any charterer nor the Master of the Ship nor any other person has any right, power or authority to create, incur or permit to be imposed upon the Ship any lien whatsoever other than for crew's wages and salvage;

(u) **Conveyance on default**

where the Ship is (or is to be) sold in exercise of any power contained in this Deed or otherwise conferred on the Mortgagee, to execute, forthwith upon request by the Mortgagee, such form of conveyance of the Ship as the Mortgagee may require;

(v) **Anti-drug abuse**

without prejudice to clause 6.1(i), to take all necessary and proper precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in any jurisdiction in or to which the Ship shall be employed or located or trade or which may otherwise be applicable to the Ship and/or the Owner and, if the Mortgagee shall so require, to enter into a **Carrier Initiative Agreement** with the United States Customs Service and to procure that the same agreement (or any similar agreement hereafter introduced by any Government Entity of the United States of America) is maintained in full force and effect and performed by the Owner;

(w) **Environmental matters**

(i) **Notice of claims and incidents**

to notify the Mortgagee as soon as reasonably practicable by facsimile thereafter confirmed by letter of:

- (A) the making of any Environmental Claim against the Owner or any of its Related Companies or any Fleet Vessel; or
- (B) the occurrence of an Environmental Incident which may give rise to any such Environmental Claim,

(ii) **Compliance with Environmental Laws**

to procure compliance with all Environmental Laws applicable to all Fleet Vessels and any owner or operator in respect of such Fleet Vessels and the terms of all consents, licences and approvals obtained under such laws; and

(iii) **Information**

to keep the Mortgagee regularly and punctually informed in writing and in reasonable detail, of the nature of, and response to, any Environmental Incident and the defence to any such Environmental Claim;

(x) **ISM and ISPS Compliance**

(i) **Compliance with ISM Code and ISPS Code**

to comply with and ensure that the Ship and its Operator comply with the requirements of the ISM Code and the ISPS Code, including (but not limited to) the maintenance and renewal of valid certificates pursuant thereto;

(ii) **Withdrawal of Statutory Certificate**

to immediately inform the Mortgagee of any threatened or actual withdrawal of any Statutory Certificate or the receipt by any Operator of notification that its application for a Statutory Certificate has been refused;

and

(iii) **Copy documentation**

to provide the Mortgagee promptly on request with a copy (certified as a true copy by the Owner) of each Statutory Certificate.

7 Powers of Mortgagee to protect security and remedy defaults

Protective action

- 7.1 The Mortgagee shall, without prejudice to its other rights, powers and remedies under the Mortgage and this Deed or any of the other Security Documents be entitled (but not bound) at any time, and as often as may be necessary, to take any such action as it may in its discretion think fit for the purpose of protecting or maintaining the security created by this Deed and the other Security Documents, and all Expenses attributable thereto shall be payable by the Owner on demand.

Remedy of defaults

- 7.2 Without prejudice to the generality of the provisions of clause 7.1:
- (a) if the Owner fails to comply with any of the provisions of clause 6.1(a) the Mortgagee shall be entitled (but not bound) to effect and thereafter to maintain all such insurances upon the Ship as in its discretion it may think fit in order to procure the compliance with such provisions or alternatively, to require the Ship (at the Owner's risk) to remain in, or to proceed to and remain in a port designated by the Mortgagee until such provisions are fully complied with;
 - (b) if the Owner fails to comply with any of the provisions of clauses 6.1(c), 6.1(e) or 6.1(f), the Mortgagee shall be entitled (but not bound) to arrange for the carrying out of such repairs, changes or surveys as it may deem expedient or necessary in order to procure the compliance with such provisions;
 - (c) if the Owner fails to comply with any of the provisions of clause 6.1(h) the Mortgagee shall be entitled (but not bound) to pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or to take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions,

and the Expenses attributable to the exercise by the Mortgagee of any such powers shall be payable on demand as provided in clause 7.1.

8 Powers of Mortgagee on Event of Default

Powers

- 8.1 Upon the happening of any Event of Default, the Mortgagee shall become forthwith entitled in accordance with the provisions of clause 23.2 of the Loan Agreement to declare the Outstanding Indebtedness to be due and payable immediately whereupon the Outstanding Indebtedness shall become so due and payable and the Mortgagee shall become forthwith entitled, as and when it may see fit, to put into force and exercise in relation to the Mortgaged Property or any part thereof all or any of the rights, powers and remedies possessed by it as mortgagee of the Mortgaged Property (whether at law, by virtue of the Mortgage and this Deed or otherwise) and in particular (without limiting the generality of the foregoing):

- (a) to take possession of the Ship;
- (b) to require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be delivered forthwith to such adjusters and/or brokers and/or other insurers as the Mortgagee may nominate;
- (c) to collect, recover, compromise and give a good discharge for, all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of any other part of the Mortgaged Property, and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Mortgagee in its absolute discretion thinks fit, and, in the case of the Insurances, to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;
- (d) to discharge, compound, release or compromise claims in respect of the Ship or any other part of the Mortgaged Property which have given or may give rise to any charge or lien or other claim on the Ship or any other part of the Mortgaged Property or which are or may be enforceable by proceedings against the Ship or any other part of the Mortgaged Property;
- (e) to sell the Ship or any share or interest therein with or without prior notice to the Owner, and with or without the benefit of any charterparty, and free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract, at such place and upon such terms as the Mortgagee in its absolute discretion may determine, with power to postpone any such sale, and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with power, where the Mortgagee purchases the Ship, to make payment of the sale price by making an equivalent reduction in the amount of the Outstanding Indebtedness in the manner referred to in clause 9.1;
- (f) to manage, insure, maintain and repair the Ship, and to employ, sail or lay up the Ship in such manner and for such period as the Mortgagee, in its absolute discretion, deems expedient accounting only for net profits arising from any such employment; and
- (g) to recover from the Owner on demand all Expenses incurred or paid by the Mortgagee in connection with the exercise of the powers (or any of them) referred to in this clause 8.1.

Appointment of Receiver

- 8.2 At any time after the Outstanding Indebtedness shall have become due and payable in accordance with clause 23.2 of the Loan Agreement, the Mortgagee shall be entitled (but not bound) by writing executed as a deed or under the hand of any Director or officer of the Mortgagee to appoint any person or persons to be a receiver and/or manager of the Mortgaged Property or any part thereof (with power to authorise any joint receiver and/or manager to exercise any power independently of any other joint receiver and/or manager) and may from time to time fix his remuneration, and may remove any receiver and/or manager so appointed and appoint another in his place. Any receiver and/or manager so appointed shall be the agent of the Owner and the Owner shall be responsible for his acts or defaults and for his remuneration, and such receiver and/or manager so appointed shall have all powers conferred by the Law of Property Act 1925 without the restrictions contained in sections 93 and 103 of that Act and, in addition, power on behalf of and at the cost of the Owner (notwithstanding any liquidation or dissolution of the Owner) to do or omit to do anything which the Owner could do or omit to do in relation to the Mortgaged Property or any part thereof and in particular (but without prejudice to the generality of the foregoing) any such receiver and/or manager may exercise all the powers and discretions conferred on the

Mortgagee by the Mortgage and this Deed.

Remuneration of Receiver

- 8.3 Any Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved, upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm, without being limited to the maximum rate specified in section 109(6) of the Law of Property Act 1925.

Liability of mortgagee in possession

- 8.4 Neither the Mortgagee nor any Receiver shall be liable as mortgagee in possession in respect of all or any of the Mortgaged Property to account or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such.

Dealings with Mortgagee or Receiver

- 8.5 Upon any sale of the Ship or any share or interest therein by the Mortgagee pursuant to clause 8.1(e) or pursuant to clause 12, or by any Receiver, the purchaser shall not be bound to see or enquire whether the Mortgagee's power of sale has arisen in the manner provided in this Deed and the sale shall be deemed to be within the power of the Mortgagee (or the Receiver, as the case may be) and the receipt of the Mortgagee (or the Receiver, as the case may be) for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of sale or be in any way answerable therefor and the sale shall operate to divest the Owner of all rights, title and interest of any nature whatsoever in the Ship and to bar any such interest of the Owner and all persons claiming through or under the Owner.

9 Application of Moneys

- 9.1 All moneys received by the Mortgagee or any Receiver in respect of:
- (a) sale of the Ship or any share or interest therein;
 - (b) recovery under the Insurances (other than under any loss of earnings insurance and any such sum or sums as may have been received by the Mortgagee in accordance with the relevant Loss Payable Clause in respect of a major casualty as therein defined and paid over to the Owner as herein provided);
 - (c) Requisition Compensation; and
 - (d) Earnings or in respect of the employment of the Ship pursuant to the provisions of clause 8.1(f),

shall be held by it upon trust in the first place to pay or make good the Expenses and, subject to clause 5.6 hereof, the balance shall be applied in accordance with clause 24.1 of the Loan Agreement.

Shortfall

- 9.2 In the event that, on application in accordance with clause 9.1, the moneys so applied are insufficient to pay in full the whole of the Outstanding Indebtedness, the Mortgagee or the Receiver, as the case may be, shall be entitled to collect the shortfall from the Owner or any other person for the time being liable therefor.

10 Remedies cumulative and other provisions

No implied waivers; remedies cumulative

- 10.1 No failure or delay on the part of the Mortgagee to exercise any right, power or remedy vested in it under any of the Security Documents shall operate as a waiver thereof, nor shall any single or partial exercise by the Mortgagee of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Mortgagee to enforce any right, power or remedy preclude any other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy nor shall the giving by the Mortgagee of any consent to any act which by the terms of this Deed requires such consent prejudice the right of the Mortgagee to withhold or give consent to the doing of any other similar act. The remedies provided in the Security Documents are cumulative and are not exclusive of any remedies provided by law.

Delegation

- 10.2 The Mortgagee shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by the Mortgage and this Deed (including the power vested in it by virtue of clause 12) or any of the other Security Documents in such manner, upon such terms, and to such persons as the Mortgagee in its absolute discretion may think fit.

Incidental powers

- 10.3 The Mortgagee shall be entitled to do all acts and things incidental or conducive to the exercise of any of the rights, powers or remedies possessed by it as mortgagee of the Ship (whether at law, under the Mortgage and/or this Deed or otherwise) and in particular (but without prejudice to the generality of the foregoing), upon becoming entitled to exercise any of its powers under clause 8.1, the Mortgagee shall be entitled to discharge any cargo on board the Ship (whether the same shall belong to the Owner or any other person) and to enter into such other arrangements in respect of the Ship, its insurances, management, maintenance, repair, survey and employment in all respects as if the Mortgagee was the owner of the Ship, but without being responsible for any loss incurred as a result of the Mortgagee doing or omitting to do any such acts or things as aforesaid.

11 Costs and Indemnity

Costs

- 11.1 The Owner shall pay to the Mortgagee on demand all expenses or liabilities of whatsoever nature (including legal fees, fees of insurance advisers, printing, out-of-pocket expenses, stamp duties, registration fees and other duties or charges) together with any value added tax or similar tax payable in respect thereof, incurred by the Mortgagee in connection with the enforcement of, or preservation of any rights under, the Mortgage and this Deed, the Loan Agreement, the Current Account Agreement or any of the other Security Documents, or otherwise in respect of the Outstanding Indebtedness and the security therefor or in connection with the preparation, completion, execution or registration of the Mortgage and this Deed, the Loan Agreement, the Current Account Agreement or any of the other Security Documents.

Mortgagee's and Receiver's Indemnity

- 11.2 The Owner hereby agrees and undertakes to indemnify the Mortgagee and any Receiver against all losses, actions, claims, expenses, demands, obligations and liabilities whatsoever and whenever arising which may now or hereafter be incurred by

it or him, or by any manager, agent, officer or employee for whose liability, act or omission it or he may be answerable, in respect of, in relation to or in connection with anything done or omitted in the exercise or purported exercise of the powers contained in the Mortgage and this Deed, the Loan Agreement, the Current Account Agreement or any of the other Security Documents or otherwise in connection therewith and herewith or with any part of the Mortgaged Property or otherwise howsoever in relation to, or in connection with, any of the matters dealt with in the Mortgage, this Deed, the Loan Agreement, the Current Account Agreement or any of the Security Documents.

Environmental Indemnity

- 11.3 The Owner hereby jointly and severally agree and undertake to indemnify the Mortgagee on demand against all losses, actions, claims, expenses, demands, obligations and liabilities sustained or incurred as a result of or in connection with any Environmental Claim being made against the Mortgagee or otherwise howsoever arising out of any Environmental Incident.

12 Attorney

Power

- 12.1 By way of security, the Owner hereby irrevocably appoints the Mortgagee and any Receiver, jointly and also severally, to be its attorney generally for and in its name and on its behalf, and as its act and deed or otherwise to execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts and things which may be required for the full exercise of all or any of the rights, powers or remedies conferred by the Mortgage, this Deed, the Loan Agreement, the Current Account Agreement or by any of the other Security Documents, or which may be deemed proper in or in connection with all or any of the purposes aforesaid (including, without prejudice to the generality of the foregoing, the execution and delivery of a bill of sale of the Ship). The power hereby conferred shall be a general power of attorney under the Power of Attorney Act 1971 and the Owner ratifies and confirms, and agrees to ratify and confirm, any deed, assurance, agreement, instrument, act or thing which the Mortgagee or the Receiver may execute or do pursuant thereto Provided always that such power shall not be exercisable by or on behalf of the Mortgagee until the Mortgagee has made a demand for the immediate payment of the Outstanding Indebtedness.

Exercise of Power

- 12.2 The exercise of such power by or on behalf of the Mortgagee or any Receiver shall not put any person dealing with the Mortgagee or the Receiver upon any enquiry as to whether the Outstanding Indebtedness has become due or payable nor shall such person be in any way affected by notice that the Outstanding Indebtedness has not become so due or payable, and the exercise by the Mortgagee or the Receiver of such power shall be conclusive evidence of the Mortgagee's or such Receiver's right to exercise the same.

Filings

- 12.3 The Owner hereby irrevocably appoints the Mortgagee and any Receiver jointly and also severally to be its attorney in its name and on its behalf and as its act and deed or otherwise, to agree the form of and to execute and do all deeds, instruments, acts and things in order to file, record, register or enrol the Mortgage and/or this Deed in any court, public office or elsewhere which the Mortgagee may in its discretion consider necessary or advisable, now or in the future, to ensure the legality, validity, enforceability or admissibility in evidence thereof and any other assurance, document, act or thing required to be executed by the Owner pursuant to clause 13.

13 Further Assurance

The Owner hereby further undertakes at its own expense from time to time to execute, sign, perfect, do and (if required) register every such further assurance, document, act or thing as in the opinion of the Mortgagee may be necessary or desirable for the purpose of more effectually mortgaging and charging the Mortgaged Property or perfecting the security constituted or intended to be constituted by the Mortgage and this Deed.

14 Notices

The provisions of clause 33 of the Loan Agreement shall apply mutatis mutandis in respect of any certificate, notice, demand or other communication given or made under this Deed.

15 Counterparts

This Deed may be entered into in the form of two or more counterparts, each executed by one or more of the parties, and, provided all the parties shall so execute this Deed, each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original but, taken together, they shall constitute one instrument.

16 Severability of provisions

Each of the provisions of this Deed are severable and distinct from the others, and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be affected or impaired thereby.

17 Law and Jurisdiction

Law

- 17.1 This Deed and any non-contractual obligations connected with it are governed by, and shall be construed in accordance with, English law.

Submission and Jurisdiction

- 17.2 For the benefit of the Mortgagee, the parties hereto irrevocably agree that any legal action or proceedings in connection with the Mortgage and/or this Deed may be brought in the English courts, or in the courts of any other country chosen by the Mortgagee, each of which shall have jurisdiction to settle any disputes arising out of or in connection with the Mortgage and/or this Deed and the Owner irrevocably and unconditionally submits to the jurisdiction of the English courts, and the courts of any country chosen by the Mortgagee. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Mortgagee to take proceedings against the Owner in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

IN WITNESS whereof this Deed has been duly executed and delivered as a deed the day and year first before written.

Schedule 1
Forms of Loss Payable Clause

(A) Hull and Machinery (Marine and War Risks)

By a Deed of Covenant dated 2013, **ATLAS NAVIGATION COMPANY LIMITED** a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (the **Owner**) has assigned to **COÖPERATIEVE RABOBANK ROTTERDAM U.A.**, of Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**) all the Owner's rights, title and interest in and to all policies and contracts of insurance from time to time taken out or entered into by or for the benefit of the Owner in respect of "VELOX (ex FLINTERLINGE)" and accordingly:

- (a) all claims hereunder in respect of an actual or constructive or compromised or arranged total loss, and all claims in respect of a major casualty (that is to say any casualty the claim in respect of which exceeds €100,000) inclusive of any deductible) shall be paid in full to the Mortgagee or to its order; and
- (b) all other claims hereunder shall be paid in full to the Owner or to its order, unless and until the Mortgagee shall have notified insurers hereunder to the contrary, whereupon all such claims shall be paid to the Mortgagee or to its order.

(B) War Risks

It is noted that **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** of Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**) is interested as First Mortgagee in the subject matter of this insurance. Save as hereinafter provided, all claims (whether in respect of actual, constructive, arranged or compromised total loss or otherwise) which, but for this Loss Payable Clause would be payable to **ATLAS NAVIGATION COMPANY LIMITED** a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (the **Owner**) shall be payable to the Mortgagee, provided always that unless and until notice in writing to the contrary has been received by the Association, claims (other than total loss claims) not exceeding €100,000 in respect of any one claim shall be paid direct to the Owner or to its order.

(C) Protection and Indemnity Risks

ATLAS NAVIGATION COMPANY LIMITED a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (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 to the contrary from **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** of Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**) in which event all recoveries shall thereafter be paid to the Mortgagee or its order; provided that no liability whatsoever shall attach to the Association, its Managers or their agents for failure to comply with the latter obligation until the expiry of two clear business days from the receipt of such notice.

Schedule 2
Form of Notice of Assignment

(For attachment by way of endorsement to the Policy)

ATLAS NAVIGATION COMPANY LIMITED a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL, the owner of m.v. "VELOX (ex FLINTERLINGE)" HEREBY GIVE NOTICE that by a Deed of Covenant dated [•] 2013 and entered into by us with **COÖPERATIEVE RABOBANK ROTTERDAM U.A.**, there has been assigned by us to **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** as First Mortgagee of the said vessel all insurances in respect thereof, including the insurances constituted by the Policy whereon this notice is endorsed.

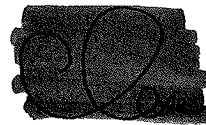
Signed
For and on behalf of
ATLAS NAVIGATION COMPANY LIMITED

.....

Dated 2013

EXECUTED and DELIVERED as a DEED
by *Claire Vogt*
for and on behalf of
ATLAS NAVIGATION COMPANY LIMITED
pursuant to a power of attorney
dated *23rd June* 2013
in the presence of:

)
)
)
)
)
)
)



.....
Attorney-in-Fact

Witness:

Signature: *Liliana Mortali*
Name: *LIUANA MORTALI*
Address: *18B FLODDEN ROAD*
LONDON, SE5 9LH
Occupation: *Shipping Assistant / Secretary*

EXECUTED and DELIVERED as a DEED
by
and
as authorised signatories
for and on behalf of
COÖPERATIEVE RABOBANK ROTTERDAM U.A.

)
)
)
)
)
)
)

.....
Authorised Signatory

.....
Authorised Signatory

CONFIDENTIAL

Dated *30 July* 2013

**DEED OF COVENANT
relating to m.v. "VELOX (ex FLINTERLINGE)"**

ATLAS NAVIGATION COMPANY LIMITED (1)

and

COÖPERATIEVE RABOBANK ROTTERDAM U.A. (2)

**Norton Rose Fulbright LLP
3 More London Riverside
London SE1 2AQ**

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THIS DEED OF COVENANT is made the day of 30 July 2013 BETWEEN:

- (1) **ATLAS NAVIGATION COMPANY LIMITED** a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (the **Owner**);
- (2) **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** a cooperative association established in and under the laws of The Netherlands and having its seat and registered office at Rotterdam, The Netherlands and for the purposes of this Deed acting through its offices at Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**).

WHEREAS:

- (1) the Owner is, the sole, absolute and unencumbered, legal and beneficial owner of sixty-four shares in the Ship described in clause 1.2;
- (2) by a loan agreement dated 25 July 2013 made between the Owner (therein referred to as the Borrower) and the Mortgagee (therein referred to as the **Lender**), the Mortgagee agreed to make available to the Owner a loan of €1,750,000 to assist the Owner in financing the acquisition of the Ship upon the terms and conditions therein contained (the **Loan Agreement**);
- (3) by a current account agreement (Rekening-Courant Overeenkomst) dated 15/23 July 2013 and made between the Owner and the Mortgagee, the Owner and the Mortgagee agreed to regulate the terms of the Current Account (as therein defined) (the **Current Account Agreement**);
- (4) as security for its obligations under (inter alia) the Loan Agreement and the Current Account Agreement the Owner has executed in favour of the Mortgagee a statutory mortgage of even date herewith in account current form constituting a first priority mortgage of sixty-four shares in the said Ship registered in the ownership the Owner; and
- (5) this Deed is supplemental to the Mortgage and to the security thereby created but shall nonetheless continue in full force and effect notwithstanding any discharge of the Mortgage.

NOW THIS DEED WITNESSES AND IT IS HEREBY AGREED as follows:

1 Definitions

Defined expressions

- 1.1 Words and expressions defined in the Loan Agreement shall, unless the context otherwise requires or unless otherwise defined herein, have the same meanings when used in this Deed.

Definitions

- 1.2 In this Deed, unless the context otherwise requires:

Approved Brokers means such firm of insurance brokers, appointed by the Owner, as may from time to time be approved in writing by the Mortgagee for the purposes of this Deed;

Classification means the classification 100 A5 E with the Classification Society or such other classification as the Mortgagee shall, at the request of the Owner, have agreed in writing shall be treated as the Classification in relation to the Ship for the

purposes of the Security Documents;

Classification Society means Germanischer Lloyd or such other classification society which is a member of the International Association of Classification Societies and which the Mortgagee shall, at the request of the Owner, have agreed in writing shall be treated as the Classification Society for the purposes of the Security Documents;

Collateral Instruments means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and other assurances against financial loss and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any indebtedness or liabilities of the Owner or any other person liable and includes any documents or instruments creating or evidencing a mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, trust arrangement or security interest of any kind;

Current Account Agreement means the agreement dated 15/23 July 2013 mentioned in recital (3) hereto as the same may from time to time be amended by the parties thereto;

DoC means a document of compliance issued to the Operator in accordance with the ISM Code;

Earnings means all moneys whatsoever from time to time due or payable to the Owner arising out of the use or operation of the Ship, including (but without limitation) all freight, hire and passage moneys, income arising under pooling arrangements, compensation payable to the Owner in the event of requisition of the Ship for hire, remuneration for salvage and towage services, demurrage and detention moneys and damages for breach (or payments for variation or termination) of any charterparty, contract or other arrangement in respect of the employment of the Ship or otherwise in connection therewith;

Expenses means the aggregate at any relevant time (to the extent that the same have not been received or recovered by the Mortgagee 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 Mortgagee or any Receiver in connection with the exercise of the powers referred to in or granted by this Deed or otherwise payable by the Owner in accordance with clause 11.1; 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 Mortgagee 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 of interest referred to in clause 7.1 of the Loan Agreement;

Fleet Vessel means the Ship and any other vessel owned, operated, managed or crewed by the Owner or any of its Related Companies;

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

IAPPC means the "international air pollutant prevention certificate" required to be issued in respect of the Ship in accordance with the Protocol of 1997, amending the International Convention for the Prevention of Pollution from Ships, 1973 (as

amended);

Insurances means all policies and contracts of insurance (which expression includes all entries of the Ship in a protection and indemnity or war risks association) which are from time to time during the Security Period in place or taken out or entered into by or for the benefit of the Owner (whether in the sole name of the Owner or in the joint name of the Owner and the Mortgagee) in respect of the Ship and its Earnings or otherwise howsoever in connection with the Ship and all benefits thereof (including claims of whatsoever nature and return of premiums);

Loan Agreement means the agreement dated *25 July* 2013 mentioned in recital (2) hereto as the same may from time to time be amended by the parties thereto;

Loss Payable Clauses means the provisions regulating the manner of payment of sums receivable under the Insurances which are to be incorporated in the relevant insurance documents, such Loss Payable Clauses to be in the forms set out in Schedule 1, or in such other forms as may from time to time be agreed in writing by the Mortgagee;

Major Casualty Amount means €100,000 (or the equivalent in any other currency);

Mortgage means the statutory mortgage mentioned in recital (5);

Mortgaged Property means:

- (a) the Ship;
- (b) the Insurances;
- (c) the Earnings; and
- (d) any Requisition Compensation;

Mortgagee includes the successors and assignees of the Mortgagee;

Notice of Assignment of Insurances means a notice of assignment in the form set out in Schedule 2, or in such other form as may from time to time be required or agreed in writing by the Mortgagee;

Operator means any person who is from time to time during the Security Period concerned in the operation of the Ship and falls within the definition of **Company** set out in rule 1.1.2 of the ISM Code;

Outstanding Indebtedness means the aggregate of the Loan and all other sums actually or contingently owing to the Mortgagee by the Owner pursuant to the Loan Agreement, the Current Account Agreement and all interest accrued and accruing thereon, the Expenses and all other sums of money from time to time owing by the Owner to the Mortgagee, whether actually or contingently, under or pursuant to the Security Documents or any of them;

Owner includes the successors in title of the Owner;

Permitted Liens means any lien on the Ship for master's, officer's or crew's wages outstanding in the ordinary course of trading, any lien for salvage and any ship repairer's or outfitter's possessory lien for a sum not (except with the prior written consent of the Mortgagee) exceeding the Major Casualty Amount;

Port of Registry means the port of Faversham or such other port of registry in the

United Kingdom approved in writing by the Mortgagee at which the Ship is, or is to be registered on, or at any relevant time after, the date hereof;

Receiver means any receiver and/or manager appointed pursuant to clause 8.2;

Related Company of a person means any Subsidiary of such person, any company or other entity of which such person is a Subsidiary and any Subsidiary of any such company or entity;

Requisition Compensation means all sums of money or other compensation from time to time payable during the Security Period by reason of requisition for title or other compulsory acquisition of the Ship otherwise than by requisition for hire;

Security Documents means the Loan Agreement, the Current Account Agreement, the Corporate Guarantee, this Deed, the Mortgage and any other such document as is defined in the Loan Agreement as a Security Document or Transaction Document or as may have been or may hereafter be executed to guarantee and/or secure all or any part of the Loan, interest thereon, any other Outstanding Indebtedness and other moneys from time to time owing by the Owner pursuant to the Loan Agreement and/or the Current Account Agreement;

Security Period means the period commencing on the date hereof and terminating upon the payment of all moneys payable under the Security Documents and the discharge of all other obligations secured thereby;

Ship means the vessel "VELOX (ex. FLINTERLINGE)" registered as British ship with the Port of Registry in the name of the Owner under Official Number 736482 and IMO number 9224104 and includes any share or interest therein and its engines, machinery, boats, tackle, outfit, equipment, spare gear, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether now owned or hereafter acquired and also any and all additions, improvements and replacements hereafter made in or to such vessel or any part thereof or in or to its equipment and appurtenances aforesaid;

Subsidiary of a person means any other person:

- (a) directly or indirectly controlled by such person; or
- (b) of whose dividends or distributions on ordinary voting share capital such person is entitled to receive more than 50%;

Taxes includes all present and future taxes, levies, imports, duties, fees or charges of whatever nature together with interest thereon and penalties in respect thereof and **Taxation** shall be construed accordingly;

Total Loss means:

- (a) the actual or constructive or compromised or arranged total loss of the Ship; or
- (b) the requisition for title or other compulsory acquisition of the Ship otherwise than by requisition for hire; or
- (c) the hijacking, theft, condemnation, capture, seizure, arrest, detention or confiscation of the Ship by any government or by persons acting or purporting to act on behalf of any government, unless the Ship be released and restored to the Owner from such capture, seizure, arrest, detention or confiscation within 30 days after the occurrence thereof; and

United Kingdom means Great Britain and Northern Ireland.

Insurance terms

1.3 In clause 6.1(a):

- (a) excess risks means the proportion (if any) of claims for general average, salvage and salvage charges and under the ordinary collision clause not recoverable in consequence of the value at which the vessel is assessed for the purpose of such claims exceeding its insured value;
- (b) protection and indemnity risks means the usual risks (including oil pollution and freight, demurrage and defence cover) covered by a United Kingdom protection and indemnity association or a protection and indemnity association which is managed in London (including, without limitation, the proportion (if any) of any sums payable to any other person or persons in case of collision which are not recoverable under the hull and machinery policies by reason of the incorporation in such policies of clause 8 of the Institute Time Clauses (Hulls) (1/11/95) or the Institute Amended Running Down Clause (1/10/71) or any equivalent provision); and
- (c) war risks includes those risks covered by the standard form of English marine policy with Institute War and Strikes Clauses Hulls - Time (1/11/95) attached or similar cover.

Headings

1.4 Clause headings and the table of contents are inserted for convenience of reference only and shall be ignored in the interpretation of this Deed.

Construction of certain terms

1.5 In this Deed, unless the context otherwise requires:

- (a) references to clauses and Schedules are to be construed as references to clauses of, and Schedules to, this Deed and references to this Deed include its Schedules;
- (b) references to (or to any specified provision of) this Deed or any other document shall be construed as references to this Deed, that provision or that document as in force for the time being and as amended in accordance with the terms thereof, or, as the case may be, with the agreement of the relevant parties and (where such consent is, by the terms of this Deed or the relevant document, required to be obtained as a condition to such amendment being permitted) the prior written consent of the Mortgagee;
- (c) words importing the plural shall include the singular and vice versa;
- (d) references to a person shall be construed as references to an individual, firm, company, corporation, unincorporated body of persons or any State or any agency thereof;
- (e) where the context so admits, references to **assign** and **assigns** shall be read and construed so as to include references to **pledge** and **pledges**;
- (f) references to statutory provisions shall be construed as references to those provisions as replaced or amended or re-enacted from time to time; and

- (g) references to **control** of an entity means:
- (i) the power (whether by way of ownership of shares, proxy, contract, agency or otherwise) to:
 - (A) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of that entity; or
 - (B) appoint or remove all, or the majority, of the directors or other equivalent officers of that entity; or
 - (C) give directions with respect to the operating and financial policies of that entity with which the directors or other equivalent officers of that entity are obliged to comply; and/or
 - (ii) the holding beneficially of more than 50% of the issued share capital of that entity (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital) (and, for this purpose, any Lien over share capital shall be disregarded in determining the beneficial ownership of such share capital),

and **controlled** shall be construed accordingly.

Conflict with Loan Agreement

- 1.6 This Deed shall be read together with the Loan Agreement but in case of any conflict between the two instruments the provisions of the Loan Agreement shall prevail.

Contracts (Rights of Third Parties) Act 1999

- 1.7 No term of this Deed is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Deed.

2 Representations and Warranties

- 2.1 The Owner hereby represents and warrants to the Mortgagee that:
- (a) the Owner is the sole legal and beneficial owner of the Ship;
 - (b) the Ship is not subject to any charter which, if entered into after the date of this Deed, would have required the consent of the Mortgagee under clause 6.1(o) and there is no existing agreement or arrangement whereby the Earnings may be shared with any other person;
 - (c) it has appointed a "Representative Person" pursuant to the Merchant Shipping Acts and will maintain such appointment throughout the Security Period;
 - (d) neither the Mortgaged Property nor any part thereof is subject to any Lien, save as constituted by the Mortgage and this Deed or otherwise permitted by the terms of this Deed;
 - (e) all applicable Environmental Laws and Environmental Approvals relating to the Ship, its operation and management and the business of the Owner (as now conducted and as reasonably anticipated may be conducted in the future) have been complied with;
 - (f) no Environmental Claim has been made or threatened against the Owner, the

Approved Manager or otherwise in connection with the Ship; and

- (g) no Environmental Incident has occurred.

3 Covenants to pay principal, interest and other money

- 3.1 In consideration of the advance by the Mortgagee to the Owner on or before or after the date hereof of the total principal sum of €1,750,000 (receipt of which sum the Owner hereby acknowledge) in accordance with the provisions of the Loan Agreement and for the obligations of the Mortgagee under the Current Account Agreement, the Owner hereby covenant with the Mortgagee:
- (a) to repay the Loan by the instalments and on the dates referred to and otherwise in the manner and upon the terms set out in the Loan Agreement;
 - (b) to discharge any liabilities to the Mortgagee under the Current Account Agreement;
 - (c) to pay interest on the Loan, the Existing Loan and on any overdue interest on other moneys payable under the Loan Agreement and the Current Account Agreement at the rate or rates from time to time applicable thereto in the manner and upon the terms set out in the Loan Agreement, the Existing Loan Agreement and the Current Account Agreement; and
 - (d) to pay all other moneys payable by the Owner under the Security Documents or any of them at the times and in the manner therein specified.

4 Mortgage and Assignment of the Mortgaged Property

Mortgage and Assignment

- 4.1 By way of security for payment of the Outstanding Indebtedness the Owner with full title guarantee hereby mortgage and charge to and in favour of the Mortgagee all its rights, title and interest present and future in and to the Mortgaged Property and, without prejudice to the generality of the foregoing, hereby assign and agree to assign to the Mortgagee all its rights, title and interest in and to the Earnings, the Insurances, any Requisition Compensation and all its benefits and interests present and future therein Provided however that:

(a) **Earnings**

the Earnings shall be payable to the Owner until such time as an Event of Default shall occur and the Mortgagee shall direct to the contrary whereupon the Owner shall forthwith, and the Mortgagee may at any time thereafter, instruct the persons from whom the Earnings are then payable to pay the same to the Mortgagee or as it may direct and any Earnings then in the hands of the Owner brokers or other agents shall be deemed to have been received by them for the use and on behalf of the Mortgagee;

(b) **Insurances**

unless and until an Event of Default shall occur (whereupon all insurance recoveries, other than any moneys payable under any loss of earnings insurance, shall be receivable by the Mortgagee and applied in accordance with clause 9.1):

- (i) any moneys payable under the Insurances shall be payable in accordance with the terms of the relevant Loss Payable Clause and the Mortgagee will not in the meantime give any notification to the contrary to the insurers as

contemplated by the Loss Payable Clauses;

- (ii) any insurance moneys received by the Mortgagee in respect of any major casualty (as specified in the relevant Loss Payable Clause) shall, unless prior to receipt or whilst such moneys are in the hands of the Mortgagee there shall have occurred an Event of Default (whereupon such insurance moneys shall be applied in accordance with clause 9.1), be paid over to the Owner upon the Owner furnishing evidence satisfactory to the Mortgagee that all loss and damage resulting from such casualty has been properly made good and repaired, and that all repair accounts and other liabilities whatsoever in connection with the casualty have been fully paid and discharged by the Owner provided always however that the insurers with whom the fire and usual marine risks insurances are effected may, in the case of a major casualty, and with the previous consent in writing of the Mortgagee, make payment on account of repairs in the course of being effected; and
- (iii) any moneys payable under any loss of earnings insurance shall be payable in accordance with the terms of the relevant Loss Payable Clause and shall be subject to such provisions of this clause 4 as shall apply to Earnings and the Mortgagee will not give any notification to the insurers as contemplated in such Loss Payable Clause unless and until the Mortgagee shall have become entitled under clause 4.1(a) to direct that the Earnings be paid to the Mortgagee.

Notice

- 4.2 The Owner hereby covenants and undertakes with the Mortgagee that it will from time to time upon the written request of the Mortgagee give written notice (in such form as the Mortgagee shall reasonably require) of the assignment herein contained to the persons from whom any part of the Mortgaged Property is or may be due.

Use of Owner's name

- 4.3 The Owner covenants and undertakes with the Mortgagee to do or permit to be done each and every act or thing which the Mortgagee may from time to time require to be done for the purpose of enforcing the Mortgagee's rights under this Deed and to allow its name to be used as and when required by the Mortgagee for that purpose.

Reassignment

- 4.4 Upon payment and discharge in full to the satisfaction of the Mortgagee of the Outstanding Indebtedness the Mortgagee shall at the request and cost of the Owner, re-assign the Earnings, the Insurances and any Requisition Compensation to the Owner or as it may direct.

5 Continuing security and other matters

Continuing security

- 5.1 The security created by the Mortgage and this Deed shall:
 - (a) be held by the Mortgagee as a continuing security for the payment of the Outstanding Indebtedness and the performance and observance of and compliance with all of the covenants, terms and conditions contained in the Security Documents, express or implied and the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby and thereby secured (or by any settlement of accounts between the Owner or any other person who may be liable to the Mortgagee in respect of the

Outstanding Indebtedness or any part thereof) and shall remain in full force and effect until the Outstanding Indebtedness has been discharged and satisfied in full (which expression shall not embrace payment of a dividend in liquidation or bankruptcy of less than 100%);

- (b) be in addition to, and shall not in any way prejudice or affect, and may be enforced by the Mortgagee without prior recourse to, the security created by any other of the Security Documents or by any present or future Collateral Instruments, right or remedy held by or available to the Mortgagee or any right or remedy of the Mortgagee thereunder;
- (c) not be in any way prejudiced or affected by the existence of any of the other Security Documents or any such Collateral Instrument, rights or remedies or by the same becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Mortgagee dealing with, exchanging, varying or failing to perfect or enforce any of the same, or giving time for payment or performance or indulgence or compounding with any other person liable; and
- (d) not in any way be prejudiced or affected by any change in the constitution of, or any amalgamation or reconstruction of the Owner, the Mortgagee or any other person or by any legal limitation, disability, incapacity or other circumstances relating to the Owner or any other person, whether or not known to the Mortgagee, by any invalidity in or irregularity or unenforceability of the obligations of the Owner or any other person under the Loan Agreement and/or the Current Account Agreement or any of the other Security Documents or otherwise and so that in the event that any obligation or purported obligation of the Owner or any other person which, if enforceable or valid or continuing, would be secured by the Mortgage and this Deed is or becomes wholly or in part unenforceable or invalid or terminated for any reason whatsoever, the Owner will keep the Mortgagee fully indemnified against any loss suffered by the Mortgagee as a result of any failure by the Owner or such other party to perform any such obligation or purported obligation.

Rights additional

- 5.2 All the rights, remedies and powers vested in the Mortgagee hereunder shall be in addition to and not a limitation of any and every other right, power or remedy vested in the Mortgagee under the Loan Agreement, the Current Account Agreement, this Deed, the Mortgage, the other Security Documents or any Collateral Instrument or at law and that all the powers so vested in the Mortgagee may be exercised from time to time and as often as the Mortgagee may deem expedient.

No enquiry

- 5.3 Neither the Mortgagee nor any Receiver shall be obliged to make any enquiry as to the nature or sufficiency of any payment received by it under either Mortgage and/or this Deed or to make any claim or take any action to collect any moneys hereby assigned or to enforce any rights or benefits hereby assigned to the Mortgagee or to which the Mortgagee may at any time be entitled under either Mortgage and/or this Deed.

Obligations of Owner and Mortgagee

- 5.4 The Owner shall remain liable to perform all the obligations assumed by it in relation to the Mortgaged Property and the Mortgagee shall be under no obligation of any kind whatsoever in respect thereof or be under any liability whatsoever in the event of any failure by the Owner to perform its obligations in respect thereof.

Discharge of Mortgage

- 5.5 Notwithstanding that this Deed is expressed to be supplemental to the Mortgage it shall

continue in full force and effect after any discharge of the Mortgage.

Suspense Account

- 5.6 Any money received in connection with Deed may be placed to the credit of a suspense account or may be applied in or towards satisfaction of the Outstanding Indebtedness or distributed in accordance with clause 9.1 of this Deed, as the Mortgagee may from time to time conclusively determine in its absolute discretion.

6 Covenants

- 6.1 The Owner hereby covenants with the Mortgagee and undertakes throughout the Security Period:

(a) Insurance

- (i) to insure and keep the Ship insured free of cost and expense to the Mortgagee and in the joint names of the Owner or, if so required by the Mortgagee, in the joint names of the Owner and the Mortgagee (but without liability on the part of the Mortgagee for premiums or calls):

(A) against fire and usual marine risks (including excess risks) and war risks (including blocking and trapping), on an agreed value basis in such amounts and upon such terms as shall from time to time be approved in writing by the Mortgagee;

(B) against protection and indemnity risks in an amount in respect of which cover is available for ships of the same type, size, age and flag as the Ship (including the maximum cover for pollution risks and a freight demurrage and defence cover) for the full value and tonnage of the Ship (as approved in writing by the Mortgagee); and

(C) in respect of such other matters of whatsoever nature and howsoever arising in respect of which insurance would be maintained by a prudent owner of the Ship,

and compensate the Mortgagee for the premium of a mortgagee's interest insurance if the Mortgagee decides to take out such an insurance for an amount at least equal to the aggregate of the original amount of the Loan made available pursuant to the Loan Agreement;

(ii) Approved Brokers, insurers and associations

to effect and keep effected the insurances aforesaid in such amounts and in such currency as the Mortgagee may from time to time approve and through the Approved Brokers and with such insurance companies and/or underwriters as shall from time to time be approved in writing by the Mortgagee; provided however that the insurances against war risks and protection and indemnity risks may be effected by the entry of the Ship with such war risks and protection and indemnity risks associations as shall from time to time be approved in writing by the Mortgagee;

(iii) Fleet Liens, set-off and cancellation

if any of the insurances referred to in clause 6.1(a)(i) form part of a fleet cover, to procure that the Approved Brokers shall undertake to the Mortgagee that they shall neither set off against any claims in respect of

the Ship any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of non-payment of premiums for other vessels under such fleet cover or of premiums for such other insurances, and shall undertake to issue a separate policy in respect of the Ship if and when so requested by the Mortgagee;

(iv) Payment of premiums and calls

punctually to pay all premiums, calls, contributions or other sums payable in respect of all such insurances and to produce all relevant receipts or other evidence of payment when so required by the Mortgagee;

(v) Renewal

at least 14 days before the relevant policies, contracts or entries expire, to notify the Mortgagee of the names of the brokers and/or the war risks and protection and indemnity risks associations proposed to be employed by the Owner or any other party for the purposes of the renewal of such insurances and of the amounts in which such insurances are proposed to be renewed and the risks to be covered and, subject to compliance with any requirements of the Mortgagee pursuant to this clause 6.1(a), to procure that appropriate instructions for the renewal of such insurances on the terms so specified are given to the Approved Brokers and/or to the approved war risks and protection and indemnity risks associations at least ten days before the relevant policies, contracts or entries expire, and that the Approved Brokers and/or the approved war risks and protection and indemnity risks associations will at least seven days (or within such shorter period as the Mortgagee may from time to time agree) before such expiry confirm in writing to the Mortgagee as and when such renewals have been effected in accordance with the instructions so given;

(vi) Guarantees

to arrange for the execution and delivery of such guarantees or indemnities as may from time to time be required by any protection and indemnity or war risks association;

(vii) Hull Policy documents, notices, loss payable clauses and brokers' undertaking

to deposit with the Approved Brokers (or procure the deposit of) all slips, cover notes, policies, certificates of entry or other instruments of insurance from time to time issued in connection with such of the insurances referred to in clause 6.1(a)(i) as are effected through the Approved Brokers and procure that the interest of the Mortgagee shall be endorsed thereon by incorporation of the relevant Loss Payable Clause and by means of a Notice of Assignment of Insurances (signed by the Owner and by any other assured who shall have assigned its interest in the Insurances to the Mortgagee) and that the Mortgagee shall be furnished with pro forma copies thereof and a letter or letters of undertaking from the Approved Brokers in such form as shall from time to time be required by the Mortgagee;

(viii) Associations' loss payable clauses, undertakings and certificates

to procure that any protection and indemnity and/or war risks associations in which the Ship is for the time being entered shall endorse the relevant Loss Payable Clause on the relevant certificate of entry or policy and shall furnish the Mortgagee with a copy of such certificate of entry or policy and

a letter or letters of undertaking in such form as shall from time to time be required by the Mortgagee;

(ix) Extent of cover and exclusions

to take all necessary action and comply with all requirements which may from time to time be applicable to the Insurances (including, without limitation, the making of all requisite declarations within any prescribed time limits and the payment of any additional premiums or calls) so as to ensure that the Insurances are not made subject to any exclusions or qualifications to which the Mortgagee has not given its prior written consent and are otherwise maintained on terms and conditions from time to time approved in writing by the Mortgagee;

(x) Correspondence with brokers and associations

to provide to the Mortgagee, at the time of each such communication, copies of all written communications between the Owner and the Approved Brokers and approved war risks and protection and indemnity associations which relate to compliance with requirements from time to time applicable to the Insurances including, without limitation, all requisite declarations and payments of additional premiums or calls referred to in clause 6.1(a)(ix);

(xi) Independent Report

if so requested by the Mortgagee, but at the cost of the Owner, to furnish the Mortgagee from time to time with a detailed report signed by an independent firm of marine insurance brokers appointed by the Mortgagee dealing with the insurances maintained on the Ship and stating the opinion of such firm as to the adequacy thereof;

(xii) Collection of Claims

to do all things necessary and provide all documents, evidence and information to enable the Mortgagee to collect or recover any moneys which shall at any time become due in respect of the Insurances;

(xiii) Employment of Ship

not to employ the Ship or suffer the Ship to be employed otherwise than in conformity with the terms of the Insurances (including any warranties express or implied therein) without first obtaining the consent of the insurers to such employment and complying with such requirements as to extra premium or otherwise as the insurers may prescribe;

(xiv) Application of Recoveries

to apply all sums receivable under the Insurances which are paid to the Owner in accordance with the Loss Payable Clauses in repairing all damage and/or in discharging the liability in respect of which such sums shall have been received;

PROVIDED ALWAYS THAT the Mortgagee shall be entitled to review the requirements of this clause 6.1(a) from time to time in order to take account of significant changes in circumstances after the date of this Deed (such changes in circumstances to include, without limitation, changes in the availability or the cost of insurance coverage). The Mortgagee may notify the Owner in writing from time to time of any proposed modification to the requirements of this clause 6.1(a) which it deems appropriate in the circumstances, and such modification shall take effect on and from the date it is notified

in writing to the Owner as an amendment to this clause 6.1(a) and shall bind the Owner accordingly;

(b) Ship's Name and Registration

- (i) not to change the name of the Ship;
- (ii) to keep the Ship registered as a British ship at the Port of Registry;
- (iii) not do or suffer to be done anything, or omit to do anything the doing or omission of which could or might result in such registration being forfeited or imperilled or which could or might result in the Ship being required to be registered otherwise than as a British ship at the Port of Registry;
- (iv) not to register the Ship or permit its registration under any other flag or at any other port without the prior written consent of the Mortgagee;
- (v) if the said registration of the Ship is for a limited period, to renew the registration of the Ship at least 45 days prior to the expiry of such registration and to provide evidence of such renewal to the Mortgagee at least 30 days prior to such expiry;

(c) Repair

to keep the Ship in a good and efficient state of repair and procure that all repairs to or replacement of any damaged, worn or lost parts or equipment are effected in such manner (both as regards workmanship and quality of materials) as not to diminish the value of the Ship;

(d) Modification; Removal of Parts; Equipment owned by third parties

not without the prior written consent of the Mortgagee to:

- (i) make any modification to the Ship in consequence of which its structure, type or performance characteristics could or might be materially altered or its value materially reduced; or
- (ii) remove any material part of the Ship or any equipment the value of which is such that its removal from the Ship would materially reduce the value of the Ship without replacing the same with equivalent parts or equipment which are owned by the Owner free from Liens; or
- (iii) install on the Ship any equipment owned by a third party which cannot be removed without causing damage to the structure or fabric of the Ship;

(e) Maintenance of class; compliance with regulations

to maintain the Classification of the Ship with the Classification Society and to comply with and ensure that the Ship at all times complies with the provisions of the Merchant Shipping Acts and all regulations and requirements (statutory or otherwise) from time to time applicable to vessels registered at the Port of Registry or otherwise applicable to the Ship;

(f) Surveys

to submit the Ship to continuous surveys and such periodical or other surveys as may be required for classification purposes and to supply to the Mortgagee copies of all survey reports issued in respect thereof;

(g) Inspection

to permit the Mortgagee by surveyors or other persons appointed by it for such purpose to board the Ship at all reasonable times for the purpose of inspecting it and to afford all proper facilities for such inspections and for this purpose to give the Mortgagee reasonable advance notice of any intended drydocking of the Ship (whether for the purpose of classification, survey or otherwise);

(h) Prevention of and release from arrest

promptly pay and discharge 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 Ship, its Earnings or Insurances or any part thereof and, in the event of a writ or libel being filed against the Ship or its Earnings or Insurances or any part thereof, or of any of the same being arrested, attached or levied upon pursuant to legal process or purported legal process or in the event of detention of the Ship in exercise or purported exercise of any such lien or claim as aforesaid, to procure the release of the Ship, its Earnings and Insurances 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 as the circumstances may require;

(i) Employment

not to employ the Ship or permit its employment in any manner, trade or business which is forbidden by international law, or which is unlawful or illicit under the law of any relevant jurisdiction, or in carrying illicit or prohibited goods, or in any manner whatsoever which may render the Ship liable to condemnation in a prize court, or to destruction, seizure, confiscation, penalty or sanctions and, in the event of hostilities in any part of the world (whether war be declared or not), not to employ the Ship or permit its employment in carrying any contraband goods, or enter or trade to or to continue to trade in any zone which is declared a war zone by any government or by the Ship's war risks insurers unless the prior written consent of the Mortgagee is obtained and such special insurance cover as the Mortgagee may require shall have been effected by the Owner and at its expense;

(j) Information

promptly to furnish the Mortgagee with all such information as it may from time to time require regarding the Ship, its employment, position and engagements, particulars of all towages and salvages, and copies of all charters and other contracts for its employment, or otherwise howsoever concerning the Ship;

(k) Notification of certain events

to notify the Mortgagee forthwith by facsimile thereafter confirmed by letter of:

- (i) any damage to the Ship requiring repairs the cost of which will or might exceed the Major Casualty Amount;
- (ii) any occurrence in consequence of which the Ship has or may become a Total Loss;
- (iii) any requisition of the Ship for hire;
- (iv) any requirement or recommendation made by any insurer or the Classification Society or by any competent authority which is not, or

cannot be, immediately complied with in accordance with its terms;

- (v) any arrest or detention of the Ship or any exercise or purported exercise of a lien or other claim on the Ship or the Earnings or Insurances or any part thereof;
- (vi) any petition or notice of meeting to consider any resolution to wind up the Owner (or any event analogous thereto under the laws of the place of its incorporation);
- (vii) the occurrence of any Event of Default;

(l) Payment of outgoings and evidence of payments

promptly to pay all tolls, dues and other outgoings whatsoever in respect of the Ship and its Earnings and Insurances and to keep proper books of account in respect of the Ship and its Earnings and, as and when the Mortgagee may so require, to make such books available for inspection on behalf of the Mortgagee, and to furnish satisfactory evidence that the wages and allotments and the insurance and pension contributions of the Master and crew are being promptly and regularly paid and that all deductions from crew's wages in respect of any applicable tax liability are being properly accounted for and that the Master has no claim for disbursements other than those incurred by him in the ordinary course of trading on the voyage then in progress;

(m) Liens

not without the prior written consent of the Mortgagee (and then only subject to such conditions as the Mortgagee may impose) to hypothecate, create or purport or agree to create or permit to arise or subsist any Lien (other than Permitted Liens) over or in respect of the Ship, any share or interest therein or in any other part of the Mortgaged Property otherwise than to or in favour of the Mortgagee;

(n) Sale or other disposal

not without the prior written consent of the Mortgagee (and then only subject to such conditions as the Mortgagee may impose) to sell, agree to sell, transfer, abandon or otherwise dispose of the Ship or any share or interest therein;

(o) Chartering

not without the prior written consent of the Mortgagee (which the Mortgagee shall have full liberty to withhold) and, if such consent is given, only subject to such conditions as the Mortgagee may impose, to let the Ship:

- (i) on demise charter for any period;
- (ii) by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained may exceed 12 months' duration;
- (iii) on terms whereby more than two months' hire (or the equivalent) is payable in advance;
- (iv) below the market rate prevailing at the time when the Ship is fixed or on any other than arms' length terms;

(p) **Sharing of Earnings**

not without the prior written consent of the Mortgagee (and then only subject to such conditions as the Mortgagee may impose) to enter into any agreement or arrangement whereby the Earnings may be shared with any other person;

(q) **Payment of Earnings**

to procure that the Earnings are paid to the Mortgagee at all times after the Mortgagee shall have directed pursuant to clause 4.1(a) that the same shall be no longer receivable by the Owner and that any Earnings which at the time such direction is given are in the hands of the Owner brokers or agents are duly accounted for and paid over to the Mortgagee forthwith on demand;

(r) **Repairers' Liens**

not without the previous consent in writing of the Mortgagee to put the Ship into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed the Major Casualty Amount unless such person shall first have given to the Mortgagee and in terms satisfactory to it, a written undertaking not to exercise any lien on the Ship or the Earnings for the cost of such work or otherwise;

(s) **Manager**

not without the previous consent in writing of the Mortgagee (and then only on and subject to such terms as the Mortgagee may agree) to appoint any manager of the Ship other than the Approved Manager;

(t) **Notice of Mortgage**

to place and at all times and places to retain a properly certified copy of each Mortgage and this Deed (which shall form part of the Ship's documents) on board the Ship with its papers and cause such certified copy of the Mortgage and this Deed to be exhibited to any and all persons having business with the Ship which might create or imply any commitment or encumbrance whatsoever on or in respect of the Ship (other than a lien for crew's wages and salvage) and to any representative of the Mortgagee and to place and keep prominently displayed in the navigation room and in the Master's cabin of the Ship a framed printed notice in plain type reading as follows:

"NOTICE OF MORTGAGE

This Ship is subject to a mortgage and a deed of covenant in favour of **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** acting through its branch at Blaak 333, 3011 GB Rotterdam, The Netherlands. Under the said mortgage and deed of covenant neither the Owner nor any charterer nor the Master of this Ship has any right, power or authority to create, incur or permit to be imposed upon this Ship 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 Owner nor any charterer nor the Master of the Ship nor any other person has any right, power or authority to create, incur or permit to be imposed upon the Ship any lien whatsoever other than for crew's wages and salvage;

(u) **Conveyance on default**

where the Ship is (or is to be) sold in exercise of any power contained in this Deed or otherwise conferred on the Mortgagee, to execute, forthwith upon request by the Mortgagee, such form of conveyance of the Ship as the Mortgagee may require;

(v) **Anti-drug abuse**

without prejudice to clause 6.1(i), to take all necessary and proper precautions to prevent any infringements of the Anti-Drug Abuse Act of 1986 of the United States of America or any similar legislation applicable to the Ship in any jurisdiction in or to which the Ship shall be employed or located or trade or which may otherwise be applicable to the Ship and/or the Owner and, if the Mortgagee shall so require, to enter into a **Carrier Initiative Agreement** with the United States Customs Service and to procure that the same agreement (or any similar agreement hereafter introduced by any Government Entity of the United States of America) is maintained in full force and effect and performed by the Owner;

(w) **Environmental matters**

(i) **Notice of claims and incidents**

to notify the Mortgagee as soon as reasonably practicable by facsimile thereafter confirmed by letter of:

- (A) the making of any Environmental Claim against the Owner or any of its Related Companies or any Fleet Vessel; or
- (B) the occurrence of an Environmental Incident which may give rise to any such Environmental Claim,

(ii) **Compliance with Environmental Laws**

to procure compliance with all Environmental Laws applicable to all Fleet Vessels and any owner or operator in respect of such Fleet Vessels and the terms of all consents, licences and approvals obtained under such laws; and

(iii) **Information**

to keep the Mortgagee regularly and punctually informed in writing and in reasonable detail, of the nature of, and response to, any Environmental Incident and the defence to any such Environmental Claim;

(x) **ISM and ISPS Compliance**

(i) **Compliance with ISM Code and ISPS Code**

to comply with and ensure that the Ship and its Operator comply with the requirements of the ISM Code and the ISPS Code, including (but not limited to) the maintenance and renewal of valid certificates pursuant thereto;

(ii) **Withdrawal of Statutory Certificate**

to immediately inform the Mortgagee of any threatened or actual withdrawal of any Statutory Certificate or the receipt by any Operator of notification that its application for a Statutory Certificate has been refused;

and

(iii) **Copy documentation**

to provide the Mortgagee promptly on request with a copy (certified as a true copy by the Owner) of each Statutory Certificate.

7 Powers of Mortgagee to protect security and remedy defaults

Protective action

- 7.1 The Mortgagee shall, without prejudice to its other rights, powers and remedies under the Mortgage and this Deed or any of the other Security Documents be entitled (but not bound) at any time, and as often as may be necessary, to take any such action as it may in its discretion think fit for the purpose of protecting or maintaining the security created by this Deed and the other Security Documents, and all Expenses attributable thereto shall be payable by the Owner on demand.

Remedy of defaults

- 7.2 Without prejudice to the generality of the provisions of clause 7.1:
- (a) if the Owner fails to comply with any of the provisions of clause 6.1(a) the Mortgagee shall be entitled (but not bound) to effect and thereafter to maintain all such insurances upon the Ship as in its discretion it may think fit in order to procure the compliance with such provisions or alternatively, to require the Ship (at the Owner's risk) to remain in, or to proceed to and remain in a port designated by the Mortgagee until such provisions are fully complied with;
 - (b) if the Owner fails to comply with any of the provisions of clauses 6.1(c), 6.1(e) or 6.1(f), the Mortgagee shall be entitled (but not bound) to arrange for the carrying out of such repairs, changes or surveys as it may deem expedient or necessary in order to procure the compliance with such provisions;
 - (c) if the Owner fails to comply with any of the provisions of clause 6.1(h) the Mortgagee shall be entitled (but not bound) to pay and discharge all such debts, damages, liabilities and outgoings as are therein mentioned and/or to take any such measures as it may deem expedient or necessary for the purpose of securing the release of the Ship in order to procure the compliance with such provisions,

and the Expenses attributable to the exercise by the Mortgagee of any such powers shall be payable on demand as provided in clause 7.1.

8 Powers of Mortgagee on Event of Default

Powers

- 8.1 Upon the happening of any Event of Default, the Mortgagee shall become forthwith entitled in accordance with the provisions of clause 23.2 of the Loan Agreement to declare the Outstanding Indebtedness to be due and payable immediately whereupon the Outstanding Indebtedness shall become so due and payable and the Mortgagee shall become forthwith entitled, as and when it may see fit, to put into force and exercise in relation to the Mortgaged Property or any part thereof all or any of the rights, powers and remedies possessed by it as mortgagee of the Mortgaged Property (whether at law, by virtue of the Mortgage and this Deed or otherwise) and in particular (without limiting the generality of the foregoing):

- (a) to take possession of the Ship;
- (b) to require that all policies, contracts, certificates of entry and other records relating to the Insurances (including details of and correspondence concerning outstanding claims) be delivered forthwith to such adjusters and/or brokers and/or other insurers as the Mortgagee may nominate;
- (c) to collect, recover, compromise and give a good discharge for, all claims then outstanding or thereafter arising under the Insurances or any of them or in respect of any other part of the Mortgaged Property, and to take over or institute (if necessary using the name of the Owner) all such proceedings in connection therewith as the Mortgagee in its absolute discretion thinks fit, and, in the case of the Insurances, to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;
- (d) to discharge, compound, release or compromise claims in respect of the Ship or any other part of the Mortgaged Property which have given or may give rise to any charge or lien or other claim on the Ship or any other part of the Mortgaged Property or which are or may be enforceable by proceedings against the Ship or any other part of the Mortgaged Property;
- (e) to sell the Ship or any share or interest therein with or without prior notice to the Owner, and with or without the benefit of any charterparty, and free from any claim by the Owner (whether in admiralty, in equity, at law or by statute) by public auction or private contract, at such place and upon such terms as the Mortgagee in its absolute discretion may determine, with power to postpone any such sale, and without being answerable for any loss occasioned by such sale or resulting from postponement thereof and with power, where the Mortgagee purchases the Ship, to make payment of the sale price by making an equivalent reduction in the amount of the Outstanding Indebtedness in the manner referred to in clause 9.1;
- (f) to manage, insure, maintain and repair the Ship, and to employ, sail or lay up the Ship in such manner and for such period as the Mortgagee, in its absolute discretion, deems expedient accounting only for net profits arising from any such employment; and
- (g) to recover from the Owner on demand all Expenses incurred or paid by the Mortgagee in connection with the exercise of the powers (or any of them) referred to in this clause 8.1.

Appointment of Receiver

- 8.2 At any time after the Outstanding Indebtedness shall have become due and payable in accordance with clause 23.2 of the Loan Agreement, the Mortgagee shall be entitled (but not bound) by writing executed as a deed or under the hand of any Director or officer of the Mortgagee to appoint any person or persons to be a receiver and/or manager of the Mortgaged Property or any part thereof (with power to authorise any joint receiver and/or manager to exercise any power independently of any other joint receiver and/or manager) and may from time to time fix his remuneration, and may remove any receiver and/or manager so appointed and appoint another in his place. Any receiver and/or manager so appointed shall be the agent of the Owner and the Owner shall be responsible for his acts or defaults and for his remuneration, and such receiver and/or manager so appointed shall have all powers conferred by the Law of Property Act 1925 without the restrictions contained in sections 93 and 103 of that Act and, in addition, power on behalf of and at the cost of the Owner (notwithstanding any liquidation or dissolution of the Owner) to do or omit to do anything which the Owner could do or omit to do in relation to the Mortgaged Property or any part thereof and in particular (but without prejudice to the generality of the foregoing) any such receiver and/or manager may exercise all the powers and discretions conferred on the

Mortgagee by the Mortgage and this Deed.

Remuneration of Receiver

- 8.3 Any Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved, upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm, without being limited to the maximum rate specified in section 109(6) of the Law of Property Act 1925.

Liability of mortgagee in possession

- 8.4 Neither the Mortgagee nor any Receiver shall be liable as mortgagee in possession in respect of all or any of the Mortgaged Property to account or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may be liable as such.

Dealings with Mortgagee or Receiver

- 8.5 Upon any sale of the Ship or any share or interest therein by the Mortgagee pursuant to clause 8.1(e) or pursuant to clause 12, or by any Receiver, the purchaser shall not be bound to see or enquire whether the Mortgagee's power of sale has arisen in the manner provided in this Deed and the sale shall be deemed to be within the power of the Mortgagee (or the Receiver, as the case may be) and the receipt of the Mortgagee (or the Receiver, as the case may be) for the purchase money shall effectively discharge the purchaser who shall not be concerned with the manner of application of the proceeds of sale or be in any way answerable therefor and the sale shall operate to divest the Owner of all rights, title and interest of any nature whatsoever in the Ship and to bar any such interest of the Owner and all persons claiming through or under the Owner.

9 Application of Moneys

- 9.1 All moneys received by the Mortgagee or any Receiver in respect of:

- (a) sale of the Ship or any share or interest therein;
- (b) recovery under the Insurances (other than under any loss of earnings insurance and any such sum or sums as may have been received by the Mortgagee in accordance with the relevant Loss Payable Clause in respect of a major casualty as therein defined and paid over to the Owner as herein provided);
- (c) Requisition Compensation; and
- (d) Earnings or in respect of the employment of the Ship pursuant to the provisions of clause 8.1(f),

shall be held by it upon trust in the first place to pay or make good the Expenses and, subject to clause 5.6 hereof, the balance shall be applied in accordance with clause 24.1 of the Loan Agreement.

Shortfall

- 9.2 In the event that, on application in accordance with clause 9.1, the moneys so applied are insufficient to pay in full the whole of the Outstanding Indebtedness, the Mortgagee or the Receiver, as the case may be, shall be entitled to collect the shortfall from the Owner or any other person for the time being liable therefor.

10 Remedies cumulative and other provisions

No implied waivers; remedies cumulative

- 10.1 No failure or delay on the part of the Mortgagee to exercise any right, power or remedy vested in it under any of the Security Documents shall operate as a waiver thereof, nor shall any single or partial exercise by the Mortgagee of any right, power or remedy nor the discontinuance, abandonment or adverse determination of any proceedings taken by the Mortgagee to enforce any right, power or remedy preclude any other or further exercise thereof or proceedings to enforce the same or the exercise of any other right, power or remedy nor shall the giving by the Mortgagee of any consent to any act which by the terms of this Deed requires such consent prejudice the right of the Mortgagee to withhold or give consent to the doing of any other similar act. The remedies provided in the Security Documents are cumulative and are not exclusive of any remedies provided by law.

Delegation

- 10.2 The Mortgagee shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by the Mortgage and this Deed (including the power vested in it by virtue of clause 12) or any of the other Security Documents in such manner, upon such terms, and to such persons as the Mortgagee in its absolute discretion may think fit.

Incidental powers

- 10.3 The Mortgagee shall be entitled to do all acts and things incidental or conducive to the exercise of any of the rights, powers or remedies possessed by it as mortgagee of the Ship (whether at law, under the Mortgage and/or this Deed or otherwise) and in particular (but without prejudice to the generality of the foregoing), upon becoming entitled to exercise any of its powers under clause 8.1, the Mortgagee shall be entitled to discharge any cargo on board the Ship (whether the same shall belong to the Owner or any other person) and to enter into such other arrangements in respect of the Ship, its insurances, management, maintenance, repair, survey and employment in all respects as if the Mortgagee was the owner of the Ship, but without being responsible for any loss incurred as a result of the Mortgagee doing or omitting to do any such acts or things as aforesaid.

11 Costs and Indemnity

Costs

- 11.1 The Owner shall pay to the Mortgagee on demand all expenses or liabilities of whatsoever nature (including legal fees, fees of insurance advisers, printing, out-of-pocket expenses, stamp duties, registration fees and other duties or charges) together with any value added tax or similar tax payable in respect thereof, incurred by the Mortgagee in connection with the enforcement of, or preservation of any rights under, the Mortgage and this Deed, the Loan Agreement, the Current Account Agreement or any of the other Security Documents, or otherwise in respect of the Outstanding Indebtedness and the security therefor or in connection with the preparation, completion, execution or registration of the Mortgage and this Deed, the Loan Agreement, the Current Account Agreement or any of the other Security Documents.

Mortgagee's and Receiver's Indemnity

- 11.2 The Owner hereby agrees and undertakes to indemnify the Mortgagee and any Receiver against all losses, actions, claims, expenses, demands, obligations and liabilities whatsoever and whenever arising which may now or hereafter be incurred by

it or him, or by any manager, agent, officer or employee for whose liability, act or omission it or he may be answerable, in respect of, in relation to or in connection with anything done or omitted in the exercise or purported exercise of the powers contained in the Mortgage and this Deed, the Loan Agreement, the Current Account Agreement or any of the other Security Documents or otherwise in connection therewith and herewith or with any part of the Mortgaged Property or otherwise howsoever in relation to, or in connection with, any of the matters dealt with in the Mortgage, this Deed, the Loan Agreement, the Current Account Agreement or any of the Security Documents.

Environmental Indemnity

- 11.3 The Owner hereby jointly and severally agree and undertake to indemnify the Mortgagee on demand against all losses, actions, claims, expenses, demands, obligations and liabilities sustained or incurred as a result of or in connection with any Environmental Claim being made against the Mortgagee or otherwise howsoever arising out of any Environmental Incident.

12 Attorney

Power

- 12.1 By way of security, the Owner hereby irrevocably appoints the Mortgagee and any Receiver, jointly and also severally, to be its attorney generally for and in its name and on its behalf, and as its act and deed or otherwise to execute, seal and deliver and otherwise perfect and do all such deeds, assurances, agreements, instruments, acts and things which may be required for the full exercise of all or any of the rights, powers or remedies conferred by the Mortgage, this Deed, the Loan Agreement, the Current Account Agreement or by any of the other Security Documents, or which may be deemed proper in or in connection with all or any of the purposes aforesaid (including, without prejudice to the generality of the foregoing, the execution and delivery of a bill of sale of the Ship). The power hereby conferred shall be a general power of attorney under the Power of Attorney Act 1971 and the Owner ratifies and confirms, and agrees to ratify and confirm, any deed, assurance, agreement, instrument, act or thing which the Mortgagee or the Receiver may execute or do pursuant thereto Provided always that such power shall not be exercisable by or on behalf of the Mortgagee until the Mortgagee has made a demand for the immediate payment of the Outstanding Indebtedness.

Exercise of Power

- 12.2 The exercise of such power by or on behalf of the Mortgagee or any Receiver shall not put any person dealing with the Mortgagee or the Receiver upon any enquiry as to whether the Outstanding Indebtedness has become due or payable nor shall such person be in any way affected by notice that the Outstanding Indebtedness has not become so due or payable, and the exercise by the Mortgagee or the Receiver of such power shall be conclusive evidence of the Mortgagee's or such Receiver's right to exercise the same.

Filings

- 12.3 The Owner hereby irrevocably appoints the Mortgagee and any Receiver jointly and also severally to be its attorney in its name and on its behalf and as its act and deed or otherwise, to agree the form of and to execute and do all deeds, instruments, acts and things in order to file, record, register or enrol the Mortgage and/or this Deed in any court, public office or elsewhere which the Mortgagee may in its discretion consider necessary or advisable, now or in the future, to ensure the legality, validity, enforceability or admissibility in evidence thereof and any other assurance, document, act or thing required to be executed by the Owner pursuant to clause 13.

13 Further Assurance

The Owner hereby further undertakes at its own expense from time to time to execute, sign, perfect, do and (if required) register every such further assurance, document, act or thing as in the opinion of the Mortgagee may be necessary or desirable for the purpose of more effectually mortgaging and charging the Mortgaged Property or perfecting the security constituted or intended to be constituted by the Mortgage and this Deed.

14 Notices

The provisions of clause 33 of the Loan Agreement shall apply mutatis mutandis in respect of any certificate, notice, demand or other communication given or made under this Deed.

15 Counterparts

This Deed may be entered into in the form of two or more counterparts, each executed by one or more of the parties, and, provided all the parties shall so execute this Deed, each of the executed counterparts, when duly exchanged or delivered, shall be deemed to be an original but, taken together, they shall constitute one instrument.

16 Severability of provisions

Each of the provisions of this Deed are severable and distinct from the others, and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be affected or impaired thereby.

17 Law and Jurisdiction

Law

- 17.1 This Deed and any non-contractual obligations connected with it are governed by, and shall be construed in accordance with, English law.

Submission and Jurisdiction

- 17.2 For the benefit of the Mortgagee, the parties hereto irrevocably agree that any legal action or proceedings in connection with the Mortgage and/or this Deed may be brought in the English courts, or in the courts of any other country chosen by the Mortgagee, each of which shall have jurisdiction to settle any disputes arising out of or in connection with the Mortgage and/or this Deed and the Owner irrevocably and unconditionally submits to the jurisdiction of the English courts, and the courts of any country chosen by the Mortgagee. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Mortgagee to take proceedings against the Owner in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

IN WITNESS whereof this Deed has been duly executed and delivered as a deed the day and year first before written.

Schedule 1

Forms of Loss Payable Clause

(A) Hull and Machinery (Marine and War Risks)

By a Deed of Covenant dated 2013, **ATLAS NAVIGATION COMPANY LIMITED** a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (the **Owner**) has assigned to **COÖPERATIEVE RABOBANK ROTTERDAM U.A.**, of Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**) all the Owner's rights, title and interest in and to all policies and contracts of insurance from time to time taken out or entered into by or for the benefit of the Owner in respect of "VELOX (ex FLINTERLINGE)" and accordingly:

- (a) all claims hereunder in respect of an actual or constructive or compromised or arranged total loss, and all claims in respect of a major casualty (that is to say any casualty the claim in respect of which exceeds €100,000) inclusive of any deductible) shall be paid in full to the Mortgagee or to its order; and
- (b) all other claims hereunder shall be paid in full to the Owner or to its order, unless and until the Mortgagee shall have notified insurers hereunder to the contrary, whereupon all such claims shall be paid to the Mortgagee or to its order.

(B) War Risks

It is noted that **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** of Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**) is interested as First Mortgagee in the subject matter of this insurance. Save as hereinafter provided, all claims (whether in respect of actual, constructive, arranged or compromised total loss or otherwise) which, but for this Loss Payable Clause would be payable to **ATLAS NAVIGATION COMPANY LIMITED** a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (the **Owner**) shall be payable to the Mortgagee, provided always that unless and until notice in writing to the contrary has been received by the Association, claims (other than total loss claims) not exceeding €100,000 in respect of any one claim shall be paid direct to the Owner or to its order.

(C) Protection and Indemnity Risks

ATLAS NAVIGATION COMPANY LIMITED a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL (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 to the contrary from **COÖPERATIEVE RABOBANK ROTTERDAM U.A.** of Blaak 333, 3011 GB Rotterdam, The Netherlands (the **Mortgagee**) in which event all recoveries shall thereafter be paid to the Mortgagee or its order; provided that no liability whatsoever shall attach to the Association, its Managers or their agents for failure to comply with the latter obligation until the expiry of two clear business days from the receipt of such notice.

Schedule 2
Form of Notice of Assignment

(For attachment by way of endorsement to the Policy)

ATLAS NAVIGATION COMPANY LIMITED a company incorporated in England and Wales whose registered office is at 20 St. Dunstan's Hill, London EC3R 8HL, the owner of m.v. "VELOX (ex FLINTERLINGE)" HEREBY GIVE NOTICE that by a Deed of Covenant dated [•] 2013 and entered into by us with **COÖPERATIEVE RABOBANK ROTTERDAM U.A.**, there has been assigned by us to **CÖÖPERATIEVE RABOBANK ROTTERDAM U.A.** as First Mortgagee of the said vessel all insurances in respect thereof, including the insurances constituted by the Policy whereon this notice is endorsed.

Signed
For and on behalf of
ATLAS NAVIGATION COMPANY LIMITED

.....
Dated 2013

EXECUTED and DELIVERED as a DEED
by
for and on behalf of
ATLAS NAVIGATION COMPANY LIMITED
pursuant to a power of attorney
dated 2013
in the presence of:

)
)
)
)
)
)
)

.....
Attorney-in-Fact

Witness:

Signature:

Name:

Address:

Occupation:



EXECUTED and DELIVERED as a DEED
by *A.J. Moor der meet*
and *P. Kloot*
as authorised signatories
for and on behalf of
COÖPERATIEVE RABOBANK ROTTERDAM U.A.

Authorised Signatory

Authorised Signatory