



Registration of a Charge

Company Name: **JAMES FISHER (SHIPPING SERVICES) LIMITED**

Company Number: **00366100**



Received for filing in Electronic Format on the: **11/09/2023**

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Details of Charge

Date of creation: **08/09/2023**

Charge code: **0036 6100 0109**

Persons entitled: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED AS SECURITY AGENT**

Brief description: **VESSEL KNOWN AS M.V. "CORRIB FISHER" WITH IMO NUMBER 9413585; FOR MORE DETAILS PLEASE REFER TO THE CHARGING INSTRUMENT.**

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **ASHURST LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 366100

Charge code: 0036 6100 0109

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th September 2023 and created by JAMES FISHER (SHIPPING SERVICES) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th September 2023 .

Given at Companies House, Cardiff on 12th September 2023

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

JAMES FISHER (SHIPPING SERVICES) LIMITED
AS OWNER

AND

HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED
AS MORTGAGEE

DEED OF COVENANTS
OF M.V. "CORRIB FISHER"

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THIS DEED OF COVENANTS (this "**Deed**") is dated 8 September 2023 and made

BETWEEN:

1. **JAMES FISHER (SHIPPING SERVICES) LIMITED**, a company incorporated in England with registration number 00366100 whose registered office is at Fisher House P O Box 4, Barrow In Furness, Cumbria, LA14 1HR as owner (the "**Owner**"); and
2. **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England with registration number 06447555 whose registered office is at 8 Canada Square, London, E14 5HQ as security agent for each of the Secured Parties (the "**Mortgagee**").

BACKGROUND:

- (A) The Owner has entered into (i) a revolving facility agreement dated 6 June 2023 (the "**RCF**") entered into between, among others, James Fisher and Sons Plc (the "**Borrower**"), the Owner and the Mortgagee and (ii) the intercreditor agreement dated 6 June 2023 (the "**ICA**") between, among others, the Borrower, the Owner and the Mortgagee.
- (B) The Owner is the registered legal owner of the Vessel described in Clause 1.1 (*Definitions*).
- (C) The Owner, on the same date as this Deed, has executed in favour of the Mortgagee a first priority English statutory ship mortgage of the Vessel (the "**Mortgage**").
- (D) As security for the Obligors' obligations under the Finance Documents, the Owner has agreed to execute and deliver this Deed upon the terms and conditions set out in this Deed.
- (E) This Deed is collateral to the Mortgage and to the security created under the Mortgage. This Deed shall continue in full force and effect notwithstanding any discharge of the Mortgage, until such time as the Secured Obligations shall have been discharged in full.

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Deed unless the context requires otherwise, terms defined in the RCF have the same meaning and construction when used in this Deed. In addition:

"Approved Classification Society" means any classification society which is a member of the International Association of Classification Societies.

"Approved Flag" means British flag or such other flag and, if applicable, port of registry approved in writing by the Mortgagee acting with the authorisation of the Majority Lenders.

"Enforcement Event" has the meaning given to the term "Senior Acceleration Event" as defined in the RCF.

"Environmental Claim" means any claim by any governmental, judicial or regulatory authority or any other person which arises out of an Environmental Incident or an alleged Environmental Incident or which relates to any Environmental Law and, for this purpose, "claim" includes a claim for damages, compensation, contribution, injury, fines, losses and penalties or any other payment of any kind, including in relation to clean-up and removal, whether or not similar to the foregoing; an order or direction to take, or not to take, certain action or to desist from or suspend certain action; and any form of enforcement or regulatory action, including the arrest or attachment of any asset.

"Environmental Incident" means:

- (a) any release, emission, spill or discharge of Environmentally Sensitive Material whether within the Vessel or from the Vessel into any other vessel or into or upon the air, water, land or soils (including the seabed) or surface water; or
- (b) any incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water from a vessel other than the Vessel and which involves a collision between the Vessel and such other vessel or some other incident of navigation or operation, in either case, in connection with which the Vessel is actually or potentially liable to be arrested, attached, detained or enjoined and/or the Vessel and/or any Obligor and/or any operator or manager of the Vessel is at fault or allegedly at fault or otherwise liable to any legal or administrative action;
- (c) any other incident in which Environmentally Sensitive Material is released, emitted, spilled or discharged into or upon the air, water, land or soils (including the seabed) or surface water otherwise than from the Vessel and in connection with which the Vessel is actually or potentially liable to be arrested and/or where any Obligor and/or any operator or manager of the Vessel is at fault or allegedly at fault or otherwise liable to any legal or administrative action.

"Environmental Law" means any present or future law relating to pollution or protection of human health or the environment, to conditions in the workspace, to the carriage, generation, handling, storage, use, release or spillage of Environmentally Sensitive Material or to actual or threatened releases of Environmentally Sensitive Material.

"Environmentally Sensitive Material" means and includes all contaminants, oil, oil products, toxic substances and any other substance (including any chemical, gas or other hazardous or noxious substance) which is (or is capable of being or becoming) polluting, toxic or hazardous.

"**ISM Code**" means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (including the guidelines on its implementation), adopted by the International Maritime Organisation, as the same may be amended or supplemented from time to time.

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code as adopted by the International Maritime Organization's (IMO) Diplomatic Conference of December 2002, as the same may be amended or supplemented from time to time.

"Party" means a party to this Deed.

"**Receiver**" means any receiver and/or manager appointed pursuant to Clause 9 (*Appointment and Powers of Receivers*).

"**Secured Assets**" means the assets of the Owner mortgaged, assigned or charged by the Owner under this Deed.

"**Security Period**" means the period from the date of this Deed until the Secured Obligations have been discharged in full.

"**Vessel**" means m.v. "CORRIB FISHER" registered in the ownership of the Owner, and includes any share or interest therein and her hull, the engines, machinery, boats, tackle, equipment, outfit, gear, instruments, parts, spare parts, fuel, consumable and other stores, belongings, appurtenances, accessories, furnishings and all other equipment of whatever kind onboard or ashore or elsewhere whether now owned or thereafter acquired by the Owner from time to time and all additions, improvements, renewals, replacements and substitutions hereafter made in or to the said vessel and any part thereof and/or the said equipment from time to time.

1.2 **Construction**

The principles of interpretation or construction contained in clause 1.2 (*Construction*) of the RCF apply to this Deed as though set out in full, except that references to the RCF are to be construed as references to this Deed.

1.3 **Conflict with RCF or ICA**

This Deed shall be read together with the RCF and the ICA and in the case of any conflict between the provisions of the RCF or the ICA and the provisions of this Deed, the provisions of the RCF or, as the case may be, the ICA shall prevail.

1.4 **Third party rights**

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed provided that a Receiver appointed pursuant to Clause 9.1 shall be entitled to enforce and enjoy the benefit of the terms of Clause 9 (*Appointment and Powers of Receivers*) subject to and in accordance with the provisions thereof (provided that the consent of a Receiver shall

not be required in relation to any amendment to this Deed (including without limitation to Clause 9 (*Appointment and Powers of Receivers*))).

1.5 Continuing effect after discharge of Mortgage

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

2. MORTGAGE

In consideration of the obligations of the Finance Parties under the Finance Documents and by way of security for the due and punctual payment, performance and discharge of the Secured Obligations, the Owner, as legal owner, mortgages and charges to and in favour of the Mortgagee, all its rights, title and interest in the Vessel.

The Owner acknowledges to the Mortgagee that the amount secured by this Deed, and in respect of which this Deed and each Security created by this Deed is enforceable, is the full amount of the Secured Obligations from time to time.

3. PERFORMANCE OF COVENANTS

The Owner shall perform and observe the covenants and provisions of the RCF, the ICA and the other Finance Documents to which it is a party.

4. REPRESENTATIONS

- (a) The Owner hereby repeats the Repeating Representations and further represents and warrants that:
 - (i) no Environmental Claim has been made or, to the best of its knowledge and belief (having made due and careful enquiry), is threatened against any member of the Group in respect of the Vessel, where that claim has or is reasonably likely, if determined against that member of the Group, to result in a Material Adverse Effect;
 - (ii) no Environmental Incident has occurred and, to the best of its knowledge and belief (having made due and careful enquiry), no person has claimed that an Environmental Incident has occurred, where that claim has or is reasonably likely, if determined against that member of the Group, to result in a Material Adverse Effect; and
 - (iii) all requirements of the ISM Code and ISPS Code as they relate to the Owner or any manager of the Vessel have been complied with.
- (b) The Repeating Representations and the representations contained in paragraphs (i) to (iii) above are deemed to be made by the Owner (in each case by reference to the facts and circumstances then existing) the date of each Utilisation Request and the first day of each Interest Period and the last day of each Interest Period.

5. GENERAL UNDERTAKINGS

The undertakings in this Clause 5 remain in force through the Security Period (except as the Mortgagee may otherwise permit).

5.1 Negative Pledge

The Owner shall not create or agree to create or permit to subsist any Security or Quasi-Security over any of the Secured Assets other than the Security created pursuant to this Deed, any other Transaction Security Document except as permitted under the RCF.

5.2 Further assurance

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

6. SHIP UNDERTAKINGS

The undertakings in this Clause 6 remain in force through the Security Period (except as the Mortgagee may otherwise permit).

6.1 Vessel's name and registration

The Owner shall:

- (a) keep the Vessel registered in its name under an Approved Flag and, where the rules relating to the relevant Approved Flag require any such registration to be renewed, renew the registration of the Vessel by no later than the date falling 60 days before the date such registration would otherwise expire;
- (b) not do or allow to be done anything as a result of which such registration might be suspended, cancelled or imperilled;
- (c) not enter into any dual flagging arrangement in respect of the Vessel after the date of this Deed;
- (d) not change the name of the Vessel,

provided that any change of flag of the Vessel shall be subject to:

- (i) the Vessel remaining subject to Security securing the Secured Liabilities created by a first priority or preferred ship mortgage on the Vessel and, if appropriate, a first priority deed of covenant collateral to that mortgage (or equivalent first priority Security) on substantially the same terms as this Deed and on such other terms and in such other form as the Mortgagee, acting with the authorisation of the Majority Lenders, shall approve or require; and
- (ii) the execution of such other documentation amending and supplementing the Finance Documents as the Mortgagee acting with the authorisation of the Majority Lenders, shall approve or require.

6.2 Repair and classification

The Owner shall keep the Vessel in good and safe condition and state of repair:

- (a) consistent with the first class ship ownership and management practice;
- (b) so as to maintain the approved classification free of overdue recommendations and conditions.

6.3 Classification society undertaking

The Owner shall use its best endeavours to procure that the Approved Classification Society (and procure that the Approved Classification Society undertakes with the Mortgagee):

- (a) to send to the Mortgagee, following receipt of a written request from the Mortgagee, certified true copies of all original class records held by the Approved Classification Society in relation to the Vessel;
- (b) if an Event of Default is continuing or the Mortgagee reasonably suspects a Default is continuing or may occur, to allow the Mortgagee (or its agents), at any time and from time to time, to, at all reasonable times and on reasonable notice at the risk and cost of the Owner, inspect the original class and related

records of the Owner and the Vessel at the offices of the Approved Classification Society and to take copies of them;

- (c) to notify the Mortgagee promptly in writing if the Approved Classification Society:
 - (i) receives notification from the Owner or any person that the Vessel's Approved Classification Society is to be changed; or
 - (ii) becomes aware of any facts or matters which may result in or have resulted in a change, suspension, discontinuance, withdrawal or expiry of the Vessel's class under the rules or terms and conditions of the Owner or the Vessel's membership of the Approved Classification Society;
- (d) following receipt of a written request from the Mortgagee:
 - (i) to confirm that the Owner is not in default of any of its contractual obligations or liabilities to the Approved Classification Society, including confirmation that it has paid in full all fees or other charges due and payable to the Approved Classification Society; or
 - (ii) to confirm that the Owner is in default of any of its contractual obligations or liabilities to the Approved Classification Society, to specify to the Mortgagee in reasonable detail the facts and circumstances of such default, the consequences of such default, and any remedy period agreed or allowed by the Approved Classification Society.

6.4 Modifications, removal and installation of parts

- (a) The Owner shall not make any modification or repairs to, or replacement of, the Vessel or equipment installed on it which would or might materially alter the structure, type or performance characteristics of the Vessel or materially reduce its value.
- (b) The Owner, subject to paragraph (c) below, shall not remove any material part of the Vessel or any item or equipment installed on the Vessel unless:
 - (i) the part or item so removed is forthwith replaced by a suitable part or item which is in the same condition as or better condition than the part or item removed;
 - (ii) the replacement part or item is free from any Security in favour of any person other than the Mortgagee; and
 - (iii) the replacement part or item becomes, on installation on the Vessel, the property of the Owner and subject to the security constituted by the Mortgage and this Deed.
- (c) The Owner may install equipment owned by a third party if the equipment can be removed without any risk of damage to the Vessel.

6.5 Surveys and inspection

- (a) The Owner shall submit the Vessel regularly to all periodic or other surveys which may be required for classification purposes and, if so required by the Mortgagee provide the Mortgagee, with copies of all survey reports; and
- (b) The Owner shall permit the Mortgagee (acting through surveyors or other persons appointed by it for that purpose) to board the Vessel at all reasonable times and on reasonable notice, but without interrupting the operation and trading of the Vessel to inspect its condition or to satisfy themselves about proposed or executed repairs and shall afford all proper facilities for such inspections, provided that there shall be no more than one such inspection of the Vessel in any year if no Event of Default has occurred and the Vessel meets the class requirements of Clause 6.2 (*Repair and classification*).

6.6 Prevention and release from arrest

- (a) The Owner shall promptly discharge:
 - (i) all liabilities which give or may give rise to maritime or possessory liens on or claims enforceable against the Vessel, her earnings or the Material Vessel Insurances;
 - (ii) all taxes, dues and other amounts charged in respect of the Vessel, her earnings or the Material Vessel Insurances; and
 - (iii) all other outgoings whatsoever required in respect of the Vessel, her earnings or the Material Vessel Insurances.
- (b) The Owner shall promptly upon receiving notice of the arrest of the Vessel or of its detention in exercise or purported exercise of any lien or claim, take all steps necessary to procure its release by providing bail or otherwise as the circumstances may require.

6.7 ISP Code

The Owner shall:

- (a) procure that the Vessel and the company responsible for the Vessel's compliance with the ISPS Code comply with the ISPS Code;
- (b) maintain an ISSC for the Vessel; and
- (c) notify the Mortgagee immediately in writing of any actual or threatened withdrawal, suspension, cancellation or modification of the ISSC.

6.8 Vessel's trading

The Owner shall procure that the Vessel:

- (a) shall not be used in any manner contrary to Sanctions;
- (b) shall not be used in trading in any manner that creates a risk that the Vessel will become a ship which is subject to Sanctions; and
- (c) shall not be traded in any manner which would trigger the operation of any sanctions limitation or exclusion clause (or similar) in the Material Vessel Insurances.

6.9 General restrictions

The Owner shall not:

- (a) de activate or lay up the Vessel; and
- (b) put the Vessel into the possession of any person for the purpose of work being done upon it in an amount exceeding or likely to exceed EUR 500,000 (or the equivalent in any other currency) unless that person has first given to the Mortgagee and in terms satisfactory to it a written undertaking not to exercise any lien on the Vessel or her earnings for the cost of such work or for any other reason.

6.10 Notice of Mortgage

If required by the laws of the Approved Flag, the Owner shall keep the Mortgage registered against the Vessel as a valid first priority mortgage, carry on board the Vessel a certified copy of the Mortgage and place and maintain in a conspicuous place in the navigation room and the master's cabin of the Vessel a framed printed notice stating that the Vessel is mortgaged by the Owner to the Mortgagee.

6.11 Environmental incidents

The Owner shall promptly, upon becoming aware of the same, inform the Agent in writing of:

- (a) any Environmental Incident or related claims against any member of the Group in respect of the Vessel which is current, pending or threatened; and
- (b) any facts or circumstances which are reasonably likely to result in any Environmental Incident or related claims being commenced or threatened against any member of the Group in respect of the Vessel.

7. PRESERVATION AND RELEASE OF SECURITY

7.1 Protection of Security

The Mortgagee shall, without prejudice to its other rights, powers and remedies under this Deed, be entitled (but not obliged) to take all such action and do all such things as it may from time to time consider (acting reasonably) necessary or desirable so as to establish, maintain, perfect, preserve and/or protect its rights under or in relation to this Deed, each Security created (or intended to be created) by this Deed and/or the priority (or intended priority) of each such Security, **provided that** the Mortgagee shall, for so long as there is no Enforcement Event, consult in good faith with the Owner in relation to the taking of any such action or the doing of any such thing. Any action taken or thing done pursuant to this Clause 7.1 shall be at the Owner's sole cost and expense.

7.2 No obligations imposed on Mortgagee

The Owner shall remain liable to perform all obligations connected with the Secured Assets and the Mortgagee shall not, in any circumstances, have or incur any obligation of any kind in connection with any Secured Asset.

7.3 Mortgagee's right to insure, repair etc.

Without limiting the generality of Clause 7 (*Preservation and Release of Security*), if the Owner does not comply with its corresponding obligations under the RCF, the Mortgagee may, at any time after the occurrence of an Enforcement Event:

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

7.4 Release of Security

- (a) The Security created by or pursuant to this Deed shall remain in full force and effect as a continuing security for the Secured Obligations unless and until discharged once all the Secured Obligations have been paid in full or as otherwise permitted in accordance with the RCF or the ICA.
- (b) Any settlement or discharge between the Mortgagee and the Owner will be conditional upon no security or payment to any Finance Party by any person under or in relation to any Finance Document being avoided or set aside or ordered to be refunded or reduced by virtue of any applicable law (including without limitation in the context of any winding-up, dissolution, administration or re- organisation).

8. POWERS OF THE MORTGAGEE

8.1 Powers following an Enforcement Event

Following the occurrence of an Enforcement Event has occurred, the Security created by or pursuant to this Deed are immediately enforceable and the Mortgagee will be entitled without further notice or demand or prior authorisation from any court, in its absolute discretion:

- (a) to exercise the powers possessed by it as mortgagee, chargee and assignee of any of the Secured Assets conferred by English law (being the governing law of this Deed) and by the law of any country or territory in which the Secured Asset is physically present or deemed to be sited, the courts of which have or claim any jurisdiction in respect of the Owner, the Vessel or any other Secured Asset;
- (b) to take possession of the Vessel whether actually or constructively and/or otherwise to take control of the Vessel wherever the Vessel may be and cause the Owner or any other person in possession of the Vessel forthwith upon demand to surrender the Vessel to the Mortgagee without legal process and without the Mortgagee or any other Finance Party or Receiver being liable for any losses caused by such actions or to account to the Owner in connection with the same;
- (c) to require that all policies, contracts, certificates of entry and other instruments relating to the Material Vessel Insurances (including details of, and correspondence concerning, outstanding claims) be delivered to such adjusters and/or brokers and/or other insurers as the Mortgagee may nominate;
- (d) to collect, recover, compromise and give a good discharge for, all claims then outstanding or arising subsequently under the whole or any part of the Material Vessel Insurances or in respect of the whole or any part of the Vessel, or any requisition compensation;
- (e) to discharge, compound, release or compromise claims in respect of the whole or any part of the Vessel, the Material Vessel Insurances or any requisition compensation;
- (f) to sell the Vessel or any share or interest in it with or without prior notice to the Owner, and with or without the benefit of any charter, by public auction or private contract at any time, at any place and upon any terms (including, without limitation, on terms that all or any part or parts of the purchase price be satisfied by shares, loan stock or other securities and/or be left outstanding as a debt, whether secured or unsecured and whether carrying interest or not) which the Mortgagee may think fit, with power for the Mortgagee to purchase the Vessel

at any such public auction and to set off the purchase price against all or any part of the Secured Obligations;

- (g) to manage, insure, maintain and repair the Vessel and to charter, employ, lay up or in any other manner whatsoever deal with the Vessel, upon any terms and for any period which the Mortgagee may think fit, in all respects as if the Mortgagee were the owner of the Vessel and without the Mortgagee or any other Receiver being responsible for any loss incurred as a result of or in connection with any such action;
- (h) to apply to any authority in any country where the Vessel may be located for an attachment or enforcement order;
- (i) to take over or commence or defend (if necessary using the name of the Owner) any claims or proceedings relating to, or affecting, any Secured Asset which the Mortgagee may think fit and to abandon, release or settle in any way any such claims or proceedings; and
- (j) generally, to enter into any transaction or arrangement of any kind and to do anything in relation to any Secured Asset which the Mortgagee may think fit.

8.2 Delegation

The Mortgagee may delegate in any manner to any person any rights exercisable by the Mortgagee under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Mortgagee thinks fit.

8.3 Mortgagee's rights prevail

The Owner acknowledges and agrees that notwithstanding anything contained in this Deed, the rights and interests of the Mortgagee in the whole or any part of the Vessel by virtue of this Deed shall at all times take precedence over the rights and interests of the Owner in the whole or any part of the Vessel.

8.4 New accounts

- (a) If the Mortgagee receives, or is deemed to have received, notice of any subsequent Security or other interest affecting all or part of the Vessel, the Mortgagee may open a new account for the Owner in the Mortgagee's books. Without prejudice to the Mortgagee's right to combine accounts, no money paid to the credit of the Owner in any such new account will be appropriated towards, or have the effect of discharging, any part of the Secured Obligations.
- (b) If the Mortgagee does not open a new account immediately on receipt of the notice, or deemed notice, under paragraph (a) above, then, unless the Mortgagee gives written notice to the contrary to the Owner, all payments made by the

Owner to the Mortgagee shall be treated as having been credited to a new account of the Owner and not as having been applied in reduction of the Secured Obligations, as from the time of receipt of the relevant notice by the Mortgagee.

8.5 No limitation of powers

- (a) The powers conferred by this Deed on the Mortgagee are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law (as extended by this Deed) and such powers shall remain exercisable from time to time by the Mortgagee in respect of any part of the Secured Assets. In the case of any conflict between the statutory powers contained in any such Acts and those conferred by this Deed, the terms of this Deed shall prevail.
- (b) The power of sale or other disposal conferred on the Mortgagee and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale under section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed to be due and payable for that purpose) on the date of this Deed.
- (c) Neither Section 93 nor Section 103 of the Law of Property Act 1925 shall apply to this Deed or to the exercise by the Mortgagee of its right to consolidate all or any of the Security created by or pursuant to this Deed with any other Security granted by any Obligor in respect of the Secured Obligations and in existence at any time or to its power of sale, which powers may be exercised by the Mortgagee without notice to the Owner on or at any time after the Security created by or pursuant to this Deed has become enforceable in accordance this Clause 8.
- (d) To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, (the "**Regulations**") apply to the Secured Assets, the Mortgagee shall have the right, at any time on or after an Enforcement Event, to appropriate all or any part of that property in or towards the payment or discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Owner. For this purpose, a commercially reasonable method of valuing cash on account in an account shall be the amount standing to the credit of that account, together with any accrued interest, at the time of appropriation.

9. APPOINTMENT AND POWERS OF RECEIVERS

9.1 Appointment

- (a) Subject to paragraphs (c) and (d) below, if
 - (i) an Enforcement Event has occurred;
 - (ii) in respect of the Secured Obligations has been given by the Mortgagee or any other Secured Party to the Owner; or
 - (iii) so requested by the Owner,the Mortgagee may by writing under hand appoint any person (or persons) to be a Receiver of all or any part of the Secured Assets.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this deed.
- (c) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this deed.
- (d) The Mortgagee shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act 1986.
- (e) A Receiver may not be appointed solely by reason of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 in relation to the Owner, other than in respect of a floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

9.2 Receiver as Agent

Each Receiver shall be the agent of the Owner which shall be solely responsible for his or her acts or defaults, and for his or her remuneration and expenses, and be liable on any agreements or engagements made or entered into by him or her. The Mortgagee will not be responsible for any misconduct, negligence or default of a Receiver.

9.3 Statutory powers of appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Mortgagee under the Law of Property Act 1925 (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Mortgagee in respect of any part of the Secured Assets.

9.4 No liability

Neither the Mortgagee nor any Receiver or Delegate shall be liable in respect of the Vessel or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his or her gross negligence or wilful default.

9.5 Possession of Secured Assets

Without prejudice to Clause 9.4 (*No Liability*), if the Mortgagee or any Delegate enters into possession of the Vessel, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

9.6 Powers of receivers

Each Receiver appointed under this deed shall have all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this deed), so that the powers set out in schedules 1 and 2 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Owner, each Receiver shall have power to:

- (a) develop, reconstruct, amalgamate or diversify any part of the business of the Owner;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Secured Assets, without being responsible for loss or damage;
- (e) establish subsidiaries to acquire interests in any of the Secured Assets and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Secured Assets on any terms and conditions;
- (f) make and effect all repairs, renewals and improvements to any of the Secured Assets and maintain, renew, take out or increase insurances;
- (g) exercise all voting and other rights attaching to the Investments and stocks, shares and other securities owned by the Owner and comprised in the Secured Assets;
- (h) redeem any prior Security on or relating to the Secured Assets and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Owner and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (i) appoint and discharge officers and others for any of the purposes of this deed and/or to guard or protect the Secured Assets upon terms as to remuneration or otherwise as he may think fit;

- (j) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Owner or relating to any of the Secured Assets;
- (k) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 9.6, or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets, and use the name of the Owner for all such purposes,

and in each case may use the name of the Owner and exercise the relevant power in any manner which he may think fit.

9.7 Receivers' powers in relation to the Vessel

Without prejudice to Clause 9.1 (*Appointment*) and the other provisions of this Clause 9.7 (*Receivers' Powers in relation to the Vessel*) and without limiting the generality of clause 9.6 (*Powers of Receivers*) it is specifically declared that, if the appointment of a Receiver comprises the Vessel, it shall have power to:

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

9.8 Receiver as Owner's attorney

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

9.9 Delegation

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

9.10 Removal of Receiver

The Mortgagee may by notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

9.11 Remuneration of Receiver

The Mortgagee may from time to time fix the remuneration of any Receiver appointed by it. Sections 109(6) and 109(8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

9.12 Several Receivers

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this deed (unless the document appointing such Receiver states otherwise).

10. POWER OF ATTORNEY

10.1 Appointment

The Owner, by way of security, irrevocably appoints the Mortgagee, any Receiver and any person nominated for the purpose by the Mortgagee or any Receiver (in writing and signed by an officer of the Mortgagee or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, deliver and perfect any deed, agreement or other instrument and to do any act or thing, following the occurrence of an Enforcement Event.

10.2 Ratification

The Owner irrevocably ratifies and confirms and agrees to ratify and confirm anything which any attorney appointed under Clause 10.1 (*Appointment*) may lawfully do and all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

10.3 General power of attorney

The power of attorney constituted by Clause 8.1 (*Appointment*) shall be a general power of attorney for the purpose of section 10 of the Powers of Attorney Act 1971.

10.4 Conclusiveness of exercise

The exercise of the power of attorney constituted by Clause 10.1 (*Appointment*) shall not put any person dealing with the Mortgagee (or any delegate or substitute) on enquiry whether, by its terms, the power of attorney is exercisable and the exercise by the Mortgagee (or any delegate or substitute) of its powers shall, as between the Mortgagee (or any delegate or substitute) and any third party, be conclusive evidence of the Mortgagee's right (or the right of any delegate or substitute) to exercise the same.

10.5 Delegation

The Mortgagee may delegate to any person or persons (including a Receiver and persons designated by him) all or any of the powers and discretions conferred on the Mortgagee by Clause 10 (*Power of Attorney*) and may do so on terms authorising successive sub-delegations.

10.6 Liability

None of the Owner, the Mortgagee, any Receiver or delegate (authorised in accordance with Clause 10.5 (*Delegation*)) shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of any such delegate or sub-delegate authorised in accordance with Clause 10.5 (*Delegation*).

10.7 Duration

The power of attorney constituted by Clause 10.1 (*Appointment*) shall be granted for the duration of the Security Period.

11. PROTECTION OF THIRD PARTIES

No person dealing with the Mortgagee or any Receiver shall be concerned to enquire:

- (a) whether the rights conferred by or pursuant to this Deed are exercisable or have been properly exercised;
- (b) whether any consents, regulations, restrictions or directions relating to such rights have been obtained or complied with;
- (c) otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such rights; or
- (d) as to the application of any money borrowed or raised.

12. SAVING PROVISIONS

12.1 Continuing and additional security

- (a) The Mortgage and this Deed shall remain in force until the end of the Security Period as continuing securities and, in particular:
 - (i) the Security created by Clause 2 (Mortgage) will extend to the ultimate balance of the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part;
 - (ii) the Security created by Clause 2 (Mortgage), and the rights of the Mortgagee under this Deed, are only capable of being extinguished, limited or otherwise adversely affected by an express and specific term in a document signed by or on behalf of the Mortgagee;
 - (iii) no failure or delay by or on behalf of the Mortgagee to enforce or exercise the Security created by Clause 2 (Mortgage) or a right of the Mortgagee under this Deed, and no act, course of conduct, acquiescence or failure to act (or to prevent the Owner from taking certain action) which is inconsistent with such Security or such a right or with such Security being a fixed security shall preclude or estop the Mortgagee (either permanently or temporarily) from enforcing or exercising it or result in the Security expressed to be fixed security taking effect as floating security.
- (b) This Deed is in addition to and is not in any way prejudiced by, and shall not prejudice any guarantee or other Security or any other right of recourse now or subsequently held by any Finance Party or any right of set-off or netting or rights to combine accounts in connection with the Finance Documents.

12.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is made by a Finance Party in whole or in part on the basis of any payment, Security or other disposition which is avoided must be restored in insolvency, liquidation, administration or otherwise, then the liability of the Owner will continue (or be reinstated as if the discharge, release or arrangement had not occurred).

12.3 Waiver of defences

The obligations of the Owner under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 12.3, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any person;
- (b) the release of any person under the terms of any composition or arrangement;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

12.4 Immediate recourse

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

12.5 Appropriations

Until the end of the Security Period, each Finance Party (or any trustee or agent on its behalf) may:

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

12.6 Deferral of Owner's rights

Until the end of the Security Period, the Owner will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (a) to be indemnified by an Obligor or any other person;

- (b) to claim any contribution from any guarantor or other person in respect of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Finance Party under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Finance Party;
- (d) to bring legal or other proceedings for an order requiring any Obligor or other person to make any payment, or perform any obligation, in respect of which any Obligor or other person has given a guarantee, undertaking or indemnity under any Finance Document;
- (e) to exercise any right of set-off against any Obligor or other person; and/or
- (f) to claim or prove as a creditor of any Obligor or other person in competition with any Finance Party.

If the Owner receives any benefit, payment or distribution in relation to such rights, it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to any Finance Party by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Mortgagee or as the Mortgagee may direct for application in accordance with the ICA.

All moneys received by the Mortgagee (or any Receiver) in relation to the Secured Assets by reason of this Deed shall be applied in or towards the discharge of the Secured Obligations in accordance with the ICA.

13. **NOTICES**

The provisions of clause 32 (*Notices*) of the RCF shall apply to this Deed (*mutatis mutandis*) as if set out in this Deed.

14. **ENGLISH LANGUAGE**

Each communication and document made or delivered by one Party to another pursuant to this Deed shall be in the English language or accompanied by a translation thereof into English certified (by an officer of the person making or delivering the same) as being a true and accurate translation thereof.

15. **PARTIAL INVALIDITY**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of

such provision under the law of any other jurisdiction will in any way be affected or impaired.

16. REMEDIES AND WAIVERS

- 16.1 Neither the failure to exercise, nor the delay in any exercise of, nor the single or partial exercise of, any right, power or remedy by the Mortgagee under or in relation to this Deed shall (a) operate as a waiver of such right, power or remedy, (b) prevent any further or other exercise of such right, power or remedy or (c) prevent the exercise of any other right, power or remedy. The rights, powers and remedies of the Mortgagee provided in this Deed are cumulative and not exclusive of any rights, powers or remedies provided by law.
- 16.2 Any waiver or consent given by a Party under or in relation to this Deed must, in order to be effective, be in writing and shall only be effective in the specific circumstances in which it is given.
- 16.3 The Mortgagee need not, before exercising any of the rights, powers or remedies conferred upon it by this Deed or by law (a) take action or obtain judgment against the Owner or any other person in any court, (b) make or file claim or proof in a winding-up or liquidation of the Owner or of any other person, or (c) enforce or seek to enforce the recovery of the monies and liabilities hereby secured or any other security.

17. CHANGES TO THE PARTIES

17.1 Owner

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

17.2 Mortgagee

The Mortgagee may at any time assign or otherwise transfer all or any part of its rights under this deed in accordance with the Finance Documents.

18. VARIATION AND BENEFIT OF DEED

- 18.1 Any amendment, supplement or variation to this Deed must be in writing and executed by each Party.
- 18.2 This Deed shall be binding upon and enure to the benefit of each Party and its successors, permitted assigns and permitted transferees.

19. COUNTERPARTS

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

20. **GOVERNING LAW AND JURISDICTION**

- 20.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by, and shall be construed in accordance with, English law.
- 20.2 Clause 42 (*Enforcement*) of the RCF shall apply to this Deed and shall be binding on the parties to this Deed as if set out in full in this Deed and as if reference in that clause to "this Agreement" were references to this Deed.

IN WITNESS WHEREOF the parties have executed this Deed as a deed on the date stated at the beginning of this Deed.

The Owner

EXECUTED as a DEED for)
and on behalf of)
JAMES FISHER (SHIPPING SERVICES))
LIMITED)

Signature of Director:



Name of Director:

CHRISTINA TSOCHCA

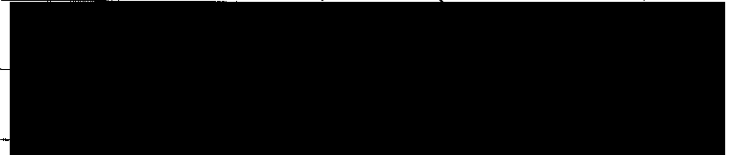
Signature of witness:



Name of witness:

SACHCHIDANAND R. SHARMA

Address of witness:



The Mortgagee

For and on behalf of)
HSBC CORPORATE TRUSTEE)
COMPANY (UK) LIMITED)
acting by its duly authorised signatory)

in the presence of:

..... Signature of witness

..... Name of witness

..... Address of witness
.....