



Registration of a Charge

Company name: **SUPREME FISHING COMPANY LIMITED**

Company number: **NI021367**

Received for Electronic Filing: **23/03/2018**



X72AX4IY

Details of Charge

Date of creation: **09/03/2018**

Charge code: **NI02 1367 0018**

Persons entitled: **ALLIED IRISH BANKS PLC**

Brief description: **M.F.V STELLA NOVA REGISTERED AT THE PORT OF DROGHEDA UNDER OFFICIAL NUMBER 404794.**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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:

LK SHIELDS



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: NI21367

Charge code: NI02 1367 0018

The Registrar of Companies for Northern Ireland hereby certifies that a charge dated 9th March 2018 and created by SUPREME FISHING COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd March 2018 .

Given at Companies House, Belfast on 23rd March 2018

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**

#4968330

Dated 9 March 2018

SUPREME FISHING COMPANY LIMITED

(the Chargor)

and

ALLIED IRISH BANKS, p.l.c.

(the Chargee)

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

DEED OF COVENANTS

LK Shields (note)

LK Shields Solicitors

20 March 2018

**Collateral to a First Priority Ship's Mortgage
over MFV Stella Nova registered at the
port of Drogheda with official number 404794**

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THIS DEED OF COVENANTS (the Deed) is dated 9 March 2018 and made between:

- (1) **SUPREME FISHING COMPANY LIMITED** a limited liability company incorporated under the laws of Northern Ireland with registration number NI021367 and having its registered office at Suite 207 Arthur House, 41 Arthur Street, Belfast, BT1 4GB, Northern Ireland (the **Chargor**); and
- (2) **ALLIED IRISH BANKS, p.l.c.** having its registered office at Bankcentre, Ballsbridge, Dublin 4, Ireland (the **Chargee**).

RECITALS

- A. The Chargor is and may become indebted to the Chargee from time to time.
- B. The Chargor is both the legal and beneficial owner of the Shares in the Vessel.
- C. It is agreed between the Chargor and the Chargee that the Chargor enter into this Deed as security for the Secured Obligations.
- D. This Deed is supplemental to the Mortgage and the security created thereby.

1. INTERPRETATION

1.1. Definitions

In this Deed, the following terms shall, unless the context otherwise requires, have the following meanings:

Account Bank means any bank or financial institution with which the Chargor maintains an Earnings Account;

Act means the Land and Conveyancing Law Reform Act 2009;

Bank's General Terms and Conditions means the Bank's General Terms and Conditions governing Business Lending referred to in, and forming part of, the Facility Agreement as amended and replaced from time to time;

Borrower means any person whose obligations and liabilities are guaranteed by the Chargor and secured by this Deed;

Business Day means a day other than a Saturday, Sunday or public holiday on which banks in Dublin are open for banking business generally;

Casualty Amount means € _____;

Classification means the highest classification for _____ with the Classification Society;

Classification Society means _____ or such other classification society as the Chargee shall, at the request of the Chargor, have agreed in writing;

Compulsory Acquisition means any requisition for title or other compulsory acquisition, decommissioning, requisition, appropriation, expropriation, deprivation, forfeiture or confiscation for any reason of the Vessel by any Governmental Authority or other competent authority, whether de jure or de facto, but excluding requisition for use or hire:

Converted Assets means assets that were the subject of a floating charge that has now converted to a fixed charge pursuant to Clause 3.4 (*Conversion of a floating charge*);

Dangerous Substance means any substance of whatever kind and form and in whatever combination capable of causing harm to any lifeform or the Environment (other than such substances kept on the Vessel for use in the ordinary course of business);

Default Rate means surcharge interest calculated in accordance with the Bank's General Terms and Conditions;

Delegate means any person appointed by the Chargee or any Receiver appointed pursuant to the provisions of Clause 13.2 (*Delegation*);

Dispute means any suit, action, proceedings and/or any dispute or difference which may arise out of or in connection with or which may relate in any way to (including but not limited to any suit, action, proceedings, dispute or difference relating to the formation, interpretation or performance of the Secured Obligations) or any dispute arising out of any non-contractual obligations of any nature (including those to which Regulation (EC) No. 864/2007 applies) arising between the parties or any of them;

Earnings Account means

- (a) the Earnings Account (if any) specified in Schedule 2, Part 1 (*Accounts*) with the Account Bank; and
- (b) all other current, deposit or other accounts with any bank or financial institution in which the Chargor now or in the future has an interest for the purpose, on its own or inter alia, of receipt of the Earnings,

and any replacement, redesignation or reinstatement of any such Earnings Account whether by current Earnings Account or deposit Earnings Account or otherwise;

Earnings means all moneys whatsoever from time to time due or payable actually or contingently to the Chargor arising out of the use or operation of the Vessel including (but without limiting, the generality of the foregoing and save as otherwise agreed to by the Chargee) all proceeds of the sale of fish, freight, hire, charter and passage moneys, income arising under pooling arrangements, compensation payable to the Chargor in the event of requisition of the Vessel 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 or other contract for employment of the Vessel);

Enforcement Event means the occurrence of an Event of Default and/or the making of a demand for full or partial repayment of the Secured Obligations by the Chargee;

Environment means the environment generally including all of its physical and ecological aspects including:

- (a) humans, animals, plants and all other living organisms including the ecological systems of which they form part;
- (b) air (including, without limitation, air within natural or man-made structures, whether above or below ground);
- (c) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (d) land (including, without limitation, land under water);

Environmental Approvals means all approvals, licences, permits, exemptions or authorisations required under applicable Environmental Law;

Environmental Claim means:

- (a) any claim by, or directive from, any applicable governmental, judicial or other regulatory authority alleging breach of, or non-compliance with, any Environmental Laws or Environmental Approvals or otherwise howsoever relating to or arising out of an Environmental Incident; or
- (b) any claim by any other third party howsoever relating to or arising out of an Environmental Incident,

and, in such case, **claim** shall mean a claim for damages, clean-up costs, compliance, remedial action or otherwise;

Environmental Incident means:

- (a) any release of Environmentally Sensitive Material from the Vessel;
- (b) any incident in which Environmentally Sensitive Material is released from a vessel other than the Vessel and which involves collision between the Vessel and such other vessel or some other incident of navigation or operation, in either case, where the Vessel, the Chargor or the Chargee are actually or allegedly at fault or otherwise liable (in whole or in part); or
- (c) any incident in which Environmentally Sensitive Material is released from a vessel other than the Vessel and where the Vessel is actually or potentially liable to be arrested as a result and/or where the Chargor or the Chargee are actually or allegedly at fault or otherwise liable;

Environmental Law means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or
- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste;

Environmentally Sensitive Material means oil, oil products, any other substance which is polluting, toxic or hazardous or any substance the release of which into the Environment is regulated, prohibited or penalised by or pursuant to any Environmental Law;

Euro or € means the lawful currency of Ireland;

Event of Default (i) has the meaning given to it in any agreement entered into from time to time by the Chargor and Chargee in respect of the Secured Obligations; or (ii) means any event or circumstance howsoever described in any agreement entitling the Chargee to demand early repayment of the Secured Obligations or part of the Secured Obligations;

Examiner means an examiner appointed under Section 509 of the Companies Act 2014;

Facility Agreement means any offer letter, letter of sanction, facility letter, facility agreement or loan agreement between the Chargor and Chargee (including the Bank's General Terms and Conditions) as amended, restated, extended, varied, novated, substituted, replaced or supplemented in any manner from time to time;

Finance Documents means together any Facility Agreement and the Security Documents;

Fishing Licence means each and every licence issued by the Department for Communications, Marine and Natural Resources or any other Governmental Authority in respect of the fishing activities carried on by the Vessel including, but without limitation, licence number _____ issued in the name of the Chargor on ____ day of _____ 20__;

Governmental Authority means any court or other tribunal or supra-national, governmental or municipal agency, authority, instrumentality or regulatory body or juridical entity or legislative or statutory body;

Insurances means all policies and contracts of insurance (which expression includes all entries of the Vessel in a protection and indemnity or war risks association) which are from time to time in place or taken out or entered into by or for the benefit of the Chargor in respect of the Vessel and the Earnings or otherwise howsoever in connection with the Vessel and all benefits thereof (including all proceeds paid or payable to the Chargor and/or Chargee, claims of whatsoever nature and return of premiums) including, without limitation, the insurances more particularly specified in Part II of Schedule 2;

Insurance Proceeds means all proceeds paid or payable to the Chargor under or in connection with the Insurances;

Major Casualty means any casualty in respect of which the claims against all insurers exceed the Casualty Amount;

Mortgage means any statutory ship mortgage executed by the Chargor in favour of the Chargee over the Vessel;

Party means a party to this Deed;

Proceedings means suits, actions or proceedings arising out of or in connection with or relating in any way to all or any of the Finance Documents or any dispute arising out of any non-contractual obligations of any nature (including those to which Regulation (EC) No. 864/2007 applies) arising between the parties or any of them (including but not limited to any suits, actions or proceedings relating to the formation, interpretation or performance of all or any of the Finance Documents);

Receiver means any receiver and/or receiver and manager or joint Receivers or joint Receivers and Managers appointed by the Chargee (whether pursuant to this Deed, the Companies Act 2014 or otherwise) in respect of the Chargor or over all or any part of the Secured Assets;

Related Company means a company which is related within the meaning of Section 2(10) and (11) of the Companies Act 2014;

Remedial Works means

- (a) any investigation, inspection, sampling or monitoring works; or
- (b) any works, steps or measures to treat, abate, remove, remedy, contain, control, manage or ameliorate the presence or actual or potential effect of any Dangerous Substance or any harm to the Environment or human health or pollution of the Environment;

Requisition Compensation means all moneys, grants or other compensation payable by reason of requisition for title or other Compulsory Acquisition of the Vessel otherwise than by requisition for hire;

Secured Assets means the Vessel, the Earnings, the Earnings Account, the Insurances, the Insurance Proceeds, the Requisition Compensation, the Tonnage and the Fishing Licence and all other assets of the Chargor which are the subject of the Security and **Secured Asset** means any secured asset;

Secured Obligations means all present and future obligations and liabilities (including in respect of principal, interest, break-costs, discount, commission, fees and expenses) of the Chargor to the Chargee, actual or contingent, whether owed jointly or severally, whether as principal or as surety or in

any other capacity whatsoever and in any currency, on any current or other account or otherwise in any manner whatsoever and any reference to Secured Obligations means a reference to any of them;

Security means the security constituted or intended to be constituted by this Deed;

Security Documents means together:

- (a) the Mortgage;
- (b) this Deed; and
- (c) any other document as may have been or may hereafter be executed to secure or regulate the Secured Obligations or any part thereof as each of the same may be amended from time to time;

Security Interest means any mortgage, charge (fixed or floating), pledge, lien, assignment, hypothecation, retention of title, flawed asset agreement, preferential right, trust arrangement or any security interest whatsoever or any other agreement or arrangement having the effect of conferring security, a priority of payment or a disposition contrary to the provisions of this Deed, howsoever created or arising;

Security Period means the period beginning on the date of this Deed and ending on the date on which all of the Secured Obligations have been unconditionally and irrevocably paid and discharged in full or, if earlier, the date upon which all of the Security shall have been unconditionally and irrevocably released and discharged and the Chargee is under no further commitment, obligation or liability (actual or contingent) to the Chargor;

Shares in the Vessel mean the shares of and in the Vessel, which the Chargor may now or hereafter hold or beneficially own and as more particularly specified in the Mortgage;

Tonnage means all present and future property rights (express or implied) howsoever arising from time to time of the Chargor in the sea-fishing capacity of the Vessel, whether measured by tonnage (as that expression is and may from time to time be commonly understood in the sea-fishing industry in Ireland) or by any other criteria whatsoever including any rights attaching thereto, in the amount of 206 gross tonnes and 423 related kilowatts acquired or to be acquired by the Chargor;

Total Loss means:

- (a) actual or constructive or compromised or arranged total loss of the Vessel;
- (b) requisition for title or other Compulsory Acquisition of the Vessel otherwise than by requisition for hire; or
- (c) capture, seizure, arrest, detention or confiscation of the Vessel by any Governmental Authority or by persons acting or purporting to act on behalf of any Governmental Authority unless the Vessel is released and restored to the Chargor from such capture, seizure, arrest or detention within one month after the occurrence thereof.

Vessel means M.F.V. Stella Nova registered at the port of Drogheda with official number 404794 and includes all shares and interests therein and her engines, machinery, boats, tackle, outfit, equipment, spare gear, nets, fuel, consumable or other stores, belongings and appurtenances whether on board or ashore and whether owned as at the date of this Deed or thereafter acquired and also any and all additions, improvements or replacements thereafter made in or to the Vessel;

Taxes means all forms of taxation, duties, imposts and levies whether of Ireland or elsewhere, including (but without limitation) income tax, corporation tax, corporation profits tax, advance corporation tax, capital gains tax, capital acquisitions tax, residential property tax, wealth tax, value added tax, dividend withholding tax, deposit interest retention tax, customs and other import and export

added tax, dividend withholding tax, deposit interest retention tax, customs and other import and export duties, excise duties, stamp duty, capital duty, social insurance, social welfare or other similar contributions and other amounts corresponding thereto whether payable in Ireland or elsewhere, and any interest, surcharge, penalty or fine in connection therewith, and the word **taxation** shall be construed accordingly.

1.2. Construction

- 1.2.1. Unless the context otherwise requires or this Deed provides otherwise, a term which is defined in any Facility Agreement shall have the same meaning (or be subject to the same construction) in this Deed.
- 1.2.2. Unless otherwise provided, any reference to a section, clause, sub-clause, paragraph or schedule is a reference to a section, clause, sub-clause, paragraph or schedule (as the case may be) of this Deed.
- 1.2.3. Headings and the contents page are inserted for ease of reference only and do not affect the construction of this Deed.
- 1.2.4. A document is in **the agreed form** if it is in the form of a draft agreed between or on behalf of the parties hereto on or before the date hereof.
- 1.2.5. If any action or duty to be taken or performed under any of the provisions of this Deed would fall to be taken or performed on a day which is not a Business Day, such action or duty shall be taken or performed on the Business Day next following such day.
- 1.2.6. Unless the context otherwise requires, any reference in this Deed to:
 - (1) a word or phrase the definition of which is contained or referred to in section 2 of the Companies Act, 2014 shall have the meaning thereby given to it;
 - (2) any provision of law is a reference to that provision as amended, substituted, extended or re-enacted and includes any subordinate legislation;
 - (3) any Irish legal term, concept, legislation or regulation (including those for any action, remedy, method of judicial proceeding, document, statute, court official, governmental authority or agency) or any accounting term or concept, in respect of any jurisdiction other than Ireland will be construed as references to the term, concept, legislation or regulation which most nearly corresponds to it in that jurisdiction;
 - (4) the singular includes the plural and vice versa and any gender includes the other gender;
 - (5) a reference to time is a reference to Irish time;
 - (6) a reference to the **Chargor** or the **Chargee** or any other person includes that person's successors, personal representatives, permitted assignees and/or transferees, substitutes, executors, administrators, successors in title (as the case may be) whether direct or indirect or any person with whom they may from time to time merge or amalgamate;
 - (7) this **Deed** and any **Finance Document** or any other agreement or instrument is a reference to this Deed, such other Finance Document or such other agreement or instrument as amended, restated, extended, varied, novated, substituted, replaced or supplemented in any manner from time to time, however fundamentally and which may include, without limitation, an increase in facilities provided under a Finance Document, an increase in any interest rate applicable to facilities provided under a Finance

Document, an increase in the Secured Obligations and/or any rescheduling of indebtedness;

- (8) a **person** includes any person, firm, partnership, company, corporation, association, trust, investment fund, government, state or agency (whether or not having a separate legal personality) or two or more of the foregoing but references to individuals are deemed to be references to natural persons only;
- (9) any phase introduced by the terms **including** or **includes** or **in particular** or any similar expression is to be construed as illustrative without limitation;
- (10) costs, charges or expenses include any value added tax or similar tax charged or chargeable in respect of such cost, charges or expenses;
- (11) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (12) **assets** includes present and future properties, revenues and rights of every description;
- (13) an **authorisation** means an authorisation, consent, approval, licence, resolution, filing or registration;
- (14) a **party** or the **parties** is a reference to a party or the parties to this Deed.

1.3. Joint and several liability

If the expression **Chargor** consists of two or more persons:

- (1) such expression shall mean and include two or more persons and each of them or (as the case may require) any of them;
- (2) all warranties, indemnities, covenants, agreements and obligations given or entered into by the Chargors shall be deemed to be made or undertaken by such persons jointly and severally and the act and default of any one of such persons shall be deemed to be the act or default of all or any of them;
- (3) the expression **Secured Obligations** shall be construed to include all Secured Obligations now or in the future due, owing or incurred by any one or more of such persons to the Chargee whether solely or jointly or jointly and severally with any other of them or with any other person;
- (4) none of such persons shall as against the Chargee be entitled to any of the rights or remedies legal or equitable of a surety as regards the Indebtedness, obligations or liabilities of any of the other of them or be entitled in competition with or priority to the Chargee to claim or exercise any of the rights (in the nature of contribution or otherwise) of one joint (or joint and several) debtor against another;
- (5) each shall be bound even if any of the others of them intended or expressed to be bound by this Deed shall not be so bound; and
- (6) the Chargee may release or discharge any one or more of them from any liability under this Deed or in respect of his, her or their interest in the Secured Assets or to take any composition from or make any other arrangements or variation with any one or more of them without thereby releasing or discharging any other or others of them or otherwise

prejudicing its rights or remedies against any other or others of them or the Secured Assets.

2. PAYMENT PROVISIONS

2.1. Covenant to Pay

The Chargor hereby covenants in favour of the Chargee that it will pay and discharge the Secured Obligations when they are due or, if no time is specified for payment and discharge of the Secured Obligations, it will pay and discharge the Secured Obligations promptly on demand by the Chargee.

2.2. Default Interest

2.2.1. The Chargor hereby covenants in favour of the Chargee to pay interest on the Secured Obligations (both before and after judgment) from the date of demand to the date of payment calculated on a daily basis Default Rate.

2.2.2. Default interest shall accrue from day to day and will be compounded at such intervals as set out in the Facility Agreement, or in the absence of any such agreement, shall be decided by the Chargee acting in its sole discretion.

2.3. Payment free of deduction

All payments to be made under this Deed by the Chargor shall be made free and clear of and without deduction for or on account of any set-off or counterclaim or any present or future Taxes, levies, imposts, charges, deductions or withholdings of any nature whatsoever. If the Chargor shall be compelled by law to make any deduction or withholding from any payment to the Chargee, the amount of the payment due from the Chargor shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Chargee receives and retains (free from any liability in respect of such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made.

2.4. Evidence and calculation

Any certificate or determination by the Chargee of a rate or amount under this Deed is, in the absence of manifest error, is conclusive evidence of the matters to which it relates.

3. CHARGING PROVISIONS

3.1. Fixed Charges

The Chargor, as beneficial owner to the intent that the mortgages, charges and assignments contained in this Deed will be a continuing security for the payment and discharge of the Secured Obligations in favour of the Chargee, hereby:

3.1.1. **MORTGAGES AND CHARGES** as a first fixed mortgage and charge, all of its rights, title and interest present and future in and to the Vessel and each Share in the Vessel with the payment, performance and discharge of the Secured Obligations;

3.1.2. **CHARGES** as a first fixed charge, all present and future rights, title and interest in and to the Earnings;

3.1.3. **CHARGES** as a first fixed charge, the Earnings Account together with all monies at any time standing to the credit of the Earnings Account and all interest and other rights accruing or arising in connection with the Earnings Account or monies;

3.1.4. **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Insurances and the Insurance Proceeds;

- 3.1.5. **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to any Requisition Compensation;
- 3.1.6. **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Tonnage;
- 3.1.7. **CHARGES** as a first fixed charge, all of its present and future rights, title and interest in and to the Fishing Licence.

3.2. **Security assignments**

The Chargor, as beneficial owner and as security for the payment and discharge of the Secured Obligations in favour of the Chargee **HEREBY ASSIGNS** and agrees to assign absolutely (in each case insofar as it is capable of assignment) unto the Chargee, all of its right, title and interest present and future in and to:

- 3.2.1. the Earnings;
- 3.2.2. the Earnings Account;
- 3.2.3. the benefit of the Insurances;
- 3.2.4. the Insurance Proceeds;
- 3.2.5. the Requisition Compensation;
- 3.2.6. the Tonnage; and
- 3.2.7. the Fishing Licence.

3.3. **Floating charge**

The Chargor hereby charges unto the Chargee by way of first floating charge:

- 3.3.1. the Earnings Account together with all monies at any time standing to the credit of the Earnings Account and all interest and other rights accruing or arising in connection with the Earnings Account or monies;
- 3.3.2. all of their assets and undertaking whatsoever and wheresoever, both present and future and the property and assets referred to in Clauses 3.1 (*Fixed charges*) and 3.2 (*Security Assignment*) above (if and in so far as such mortgages, charges and/or assignments in this Deed shall be ineffective as fixed charges/security assignments).

3.4. **Conversion of a floating charge**

3.4.1. **Conversion by notice**

The Chargee may, by notice in writing to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of the Chargor if:

- (1) an Enforcement Event has occurred;
- (2) the Chargee considers, in good faith, that the Secured Assets (or any of them) are in danger of being seized or sold under or pursuant to any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or
- (3) the Chargee considers such conversion to be necessary or desirable to protect the priority of the Security;

and such fixed charge shall apply to all assets the subject of the floating charge as specified in the notice.

3.4.2. Automatic conversion

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge (without notice) as regards all assets which are subject to the floating charge if:

- (1) the Chargor creates (or attempts or purports to create) any Security Interest on or over any of the Secured Assets without the prior written consent in writing of the Chargee;
- (2) any person levies or attempts to levy any distress, execution, sequestration, attachment or other legal process against the Secured Assets (or any of them);
- (3) if a receiver and/or manager is appointed over the Chargor or any of its assets;
- (4) if a petition is presented for the appointment of a liquidator, Examiner or other analogous insolvency official to the Chargor, or the protection of the court is sought by a Related Company;
- (5) if any meeting of the directors or members of the Chargor is convened for the purposes of considering any resolution for its winding-up or liquidation or for appointing an examiner to the Chargor or other analogous insolvency procedure or with a view to a composition, assignment or arrangement with its creditors generally (or any class of its creditors) or any meeting is convened for the purposes of considering any event similar or analogous to the foregoing and such a resolution is passed; or
- (6) if the Chargor ceases to carry on business as a going concern.

3.4.3. Partial conversion

The giving of notice by the Chargee pursuant to Clause 3.4.2 (*Conversion by notice*) in relation to any assets of the Chargor shall not be construed as a waiver or abandonment of the rights of the Chargee to serve similar notices in respect of any other assets or of any of the other rights of the Chargee.

3.4.4. Treatment of floating charge assets post conversion

The Chargor undertakes to the Chargee that, following the occurrence of any of the events set out in this Clause 3.4 (*Conversion of a Floating Charge*), it:

- (1) shall not sell, transfer, convey, lease, licence, assign (or enter into any agreement in connection thereto) or otherwise deal with or dispose of the Converted Assets;
- (2) shall deliver as soon as possible to the Chargee or otherwise as agreed with the Chargee in writing, such information as the Chargee shall require to identify the Converted Assets including, for the avoidance of doubt, a full description (including serial/identification numbers in respect of plant and equipment and other tangible assets, account numbers, contract details etc) of all of the assets comprised in the Converted Assets; and
- (3) shall deliver as soon as possible to the Chargee or otherwise as agreed with the Chargee in writing, all documents of title relating to such Converted Assets.

4. FURTHER ASSURANCE

4.1. General

The Chargor shall during the continuance of the security constituted by this Deed from time to time do, execute, acknowledge and deliver all and every such further deeds, mortgages, charges, documents and assurances at law as are necessary or advisable or as the Chargee may reasonably require for the purpose of giving the Chargee a valid first fixed and specific mortgage, charge or security upon all or any of the Secured Assets whether already owned or acquired after the execution of this Deed by the Chargor and for the better mortgaging or charging the same to the Chargee for the purpose referred to in Clause 3 (*Charging Provisions*) and for conferring upon the Chargee such power of sale and other powers over the said property as are expressed to be conferred by this Deed.

4.2. Perfection of Security

Without prejudice to the generality of the foregoing, the Chargor shall forthwith upon execution of this Deed:

4.2.1. Insurances

- (1) give notice of the assignment of the benefit of the Insurances contained in Clause 3.2 (*Security Assignments*) hereof to the insurers and the managers of any war risks protection and indemnity associations (or procure that the approved brokers do so) and further procure that the interest of the Chargee shall be duly endorsed and noted on each and every policy of insurance in respect of the risks mentioned in Clause 7.25 (*Insurances*) and on each and every entry in a protection and indemnity association by means of a Notice of Assignment and a Loss Payable Clause in the form set out in Schedule 3, Part I and Part III;
- (2) where any protection and indemnity insurance is not assignable, the Chargor is not obliged to give such notice referred to in (1) above but shall procure that the protection and indemnity association acknowledges the interest of the Chargee by issuing a letter of undertaking where such letter shall include a loss payable clause in favour the Chargee, shall acknowledge the Chargee's interest in the Vessel, shall confirm cover is maintained and shall further confirm endorsement of their standard loss payable and cancellation clauses to the certificate of entry in favour of the Chargee;
- (3) use all reasonable endeavours to cause the insurance brokers and insurers of the Vessel, and the managers of any protection and indemnity or war risks associations in which the Vessel may be entered or such insurance brokers, insurers and managers as aforesaid as may have been approved by the Chargee to sign an acknowledgment substantially in the form set out in Schedule 3, Part II and Part IV or such other form acceptable to the Chargee.

4.2.2. Tonnage

- (1) give notice of the assignment of the Tonnage contained in Clause 3.2 (*Security Assignments*) hereof to the Licensing Authority for Sea Fishing Boats or such other relevant authority by means of a notice of assignment in the form set out in Schedule 3, Part V; and
- (2) use all reasonable endeavours to procure an acknowledgement in the form set out in Schedule 3, Part VI.

4.2.3. Earnings Account

- (1) give notice of the assignment and charge over the Earnings Account contained in Clause 3 (*Charging Provisions*) on the Account Bank in the form set out in Schedule 4, Part I; and

- (2) shall use reasonable endeavours to procure an acknowledgment in the form set out in Schedule 4, Part II.

5. CONTINUING SECURITY

5.1. Continuing security

- 5.1.1. The Security is a continuing security and will extend to the ultimate balance of the Secured Obligations until released or discharged by the Chargee in accordance with the terms of this Deed.
- 5.1.2. The Security will not be considered satisfied or discharged by any intermediate repayment or satisfaction of all or any part of the Secured Obligations.
- 5.1.3. If upon final repayment and satisfaction of the Secured Obligations there shall exist any right on the part of the Chargor or any other person to draw funds or otherwise which, if exercised, would or might cause the Chargor to become actually or contingently liable to the Chargee, whether as principal debtor or as surety for another person, then the Chargee will be entitled to retain the Security and all rights, remedies and powers conferred by this Deed and the Secured Assets for so long as shall or might be necessary to secure the discharge of such actual or contingent liability.

- 5.2. Notwithstanding that this Deed is supplemental to the Mortgage, it shall continue in full force and effect even after the release and discharge of the Mortgage.

5.3. Right to enforce

This Deed may be enforced against the Chargor without the Chargee first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it, irrespective of any law or any provision of this Deed to the contrary.

5.4. Waiver of defences

In the event that the Chargor is securing obligations in its capacity as a guarantor or surety, the obligations of the Chargor under this Deed and the Security shall not be affected by any act, omission, matter or thing which, but for this provision, might operate to impair, affect or discharge such obligations, in whole or in part, including without limitation, and whether or not known to or discoverable by the Chargor, the Chargee or any other person:

- 5.4.1. any time, indulgence or waiver granted to or composition with any person whatsoever;
- 5.4.2. the taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against or granted by any person whatsoever;
- 5.4.3. any legal limitation, disability, incapacity or other circumstances relating to any such party or any other person;
- 5.4.4. any amendment, novation, supplement, variation, restatement, replacement of or extension (in each case however fundamental and of whatsoever nature and whether or not more onerous) of any term of this Deed or any other Finance Document or any increase in the Secured Obligations to the intent that this Deed shall apply to such term as varied or in respect of the extended due date or such increase;
- 5.4.5. any judgment obtained against the Chargor;
- 5.4.6. the dissolution, liquidation, examinership, amalgamation, reconstruction or reorganisation of the Chargor, the Borrower or any other person; or

- 5.4.7. any irregularity, unenforceability, invalidity or frustration of any obligations of any person whatsoever under any agreement or any other document or security, or any present or future law or order of any government or authority purporting to produce or otherwise effect any such obligations, to the intent that this Deed shall remain in full force and be construed accordingly as if there were no such irregularity, unenforceability, invalidity, frustration, law or order.

5.5. No competition

In the event that the Chargor is securing obligations in its capacity as a guarantor or surety, until the Secured Obligations have been unconditionally and irrevocably satisfied and discharged in full to the satisfaction of the Chargee, the Chargor shall not by virtue of any payment made hereunder on Earnings Account of the Secured Obligations or by virtue of any enforcement by the Chargee of its rights under this Deed or the Security:

- 5.5.1. exercise any rights of subrogation in relation to any rights, security or moneys held or received or receivable by the Chargee or any person;
- 5.5.2. exercise any right of contribution or indemnity from any co-surety liable in respect of such moneys and liabilities under any other guarantee, security or agreement;
- 5.5.3. exercise any right of set-off or counterclaim against the Borrower or any co-surety;
- 5.5.4. receive, claim or have the benefit of any payment, distribution, security or indemnity from the Borrower or any such co-surety; or
- 5.5.5. claim, rank, prove or vote as a creditor of the Borrower or any such co-surety in competition with the Chargee.

The Chargor will hold in trust for and forthwith pay or transfer to the Chargee any payment or distribution or benefit of security received by it contrary to the above. If the Chargor exercises any right of set-off contrary to the above, it will forthwith pay an amount equal to the amount set-off to the Chargee.

6. REPRESENTATIONS AND WARRANTIES

6.1. Nature of security

The Chargor represents and warrants to the Chargee that:

- 6.1.1. it is duly incorporated and validly existing under the laws of its place of incorporation and it is a separate legal entity capable of suing and being sued;
- 6.1.2. it has the necessary power and authority, and all necessary corporate and other action has been taken, to enable it to execute, deliver and perform the obligations undertaken by it under the Finance Documents to which it is party;
- 6.1.3. the obligations under this Deed are legally and validly binding on it and are enforceable in accordance with the terms of this Deed;
- 6.1.4. all authorisations, approvals or other action by, and notice to or filing with, any governmental or regulatory authority or regulatory body as required for the entry into and performance of this Deed, have been obtained and are in full force and effect;
- 6.1.5. the execution of this Deed, the creation of the Security or the performance by the Chargor of its obligations hereunder will not contravene its constitutional documents, any applicable law or regulation or any agreement to which the Chargor is a party or which is binding on the Chargor or the Secured Assets;

- 6.1.6. it is and will at all times during the Security Period, be the sole lawful and beneficial owner of the Secured Assets;
- 6.1.7. on the date of execution of this Deed and on each date hereafter until the Security is released by the Chargee, the Secured Assets are free from any mortgage, charge or any other Security Interest (save for those created pursuant to this Deed) and constitutes a first priority Security Interest over the Secured Assets enforceable against the Chargor;
- 6.1.8. its centre of main interests (as that term is used in Article 3(1) of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the **Regulation**)) is situated in Ireland and it has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction;
- 6.1.9. its obligations under this Deed rank and will rank at least pari passu with the claims of all of its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally;
- 6.1.10. it is able to pay its debts within the meaning of Section 570 of the Companies Act 2014 or any analogous legislation at the time of entering into this Deed and remains able to pay its debts and did not become unable to pay its debts as a consequence of entering into this Deed;
- 6.1.11. it has not taken any corporate action nor have any other steps been taken or legal proceedings been instituted or (to the best of its knowledge and belief having made all reasonable enquiries) threatened against it for its winding up or re-organisation or to appoint an examiner or receiver or any such analogous steps in relation to it or any of its assets; and
- 6.1.12. there is no litigation, arbitration, insolvency or other proceeding is taking place, pending, or, to its knowledge, threatened against it or any of its assets.

6.2. The Vessel

The Chargor represents and warrants to the Chargee:

- 6.2.1. without prejudice to the generality of Clauses 6.1.6 and 6.1.7 it is the sole legal and beneficial owner of all of the Shares in the Vessel and none of the Shares in the Vessel are subject to any Security Interest (save as constituted by the Mortgage and this Deed);
- 6.2.2. without prejudice to the generality of Clauses 6.1.6 and 6.1.7 it is the sole legal and beneficial owner of the whole of the remainder of the Secured Assets (other than the Shares in the Vessel) and none of the Chargor's rights, title or interest to or in any part of the remainder of the Secured Assets (other than the Shares in the Vessel) are subject to any Security Interest (save as constituted by the Mortgage and this Deed);
- 6.2.3. it has not sold or transferred, or agreed to sell or transfer, any of its rights, title or interest to or in any part of the Secured Assets;
- 6.2.4. the Vessel is not, save as has been disclosed by the Chargor to the Chargee in writing, subject to, or contracted to perform under, any charter or other contract for her employment.

6.3. Environmental laws

The Chargor represents and warrants to the Chargee that:

- 6.3.1. all applicable Environmental Laws and Environmental Approvals relating to the Vessel, its operation and management and the business of the Chargor (as now conducted and as reasonably anticipated to be conducted in the future) have been complied with;

6.3.2. no Environmental Claim has been made or threatened against the Chargor or otherwise in connection with the Vessel; and

6.3.3. no Environmental Incident has occurred.

6.4. The Earnings

The Chargor represents and warrants to the Chargee that no agreement or arrangement exists whereby the Earnings may be shared with any other person.

6.5. Repetition

6.5.1. The representations and warranties set out in this Clause 6 (*Representations and Warranties*) shall be given on the date of this Deed and shall be deemed to be made repeated on each day during the Security Period.

6.5.2. When a representation and warranty is deemed to be repeated, it is deemed to be made by reference to the facts and circumstances existing at the time of repetition.

7. UNDERTAKINGS

7.1. Negative pledge

7.1.1. The Chargor will not do or agree to do any of the following without the prior written consent of the Chargee:

- (1) create or permit to subsist any Security Interest on any of the Secured Assets (other than a lien arising in the ordinary and usual course of business by operation of law provided any such lien is discharged within 60 days after it arises unless being contested in good faith and by appropriate proceedings); or
- (2) sell, transfer, lease, licence, lend or otherwise Dispose of all or any part of its interest in the Secured Assets.

7.1.2. The foregoing provisions of this Clause 7.1 (*Negative Pledge*) shall not be construed as limiting any powers exercisable by any Receiver appointed by the Chargee under or pursuant to this Deed.

7.2. Secured Assets generally

The Chargor covenants and undertakes to the Chargee that at all times during the continuance of the Security that the Chargor will:

7.2.1. General compliance

- (1) conduct and carry on its business in a proper and efficient manner and procure that no substantial change is made to the general nature of the business of the Chargor taken as a whole from that carried on at the date of this Deed;
- (2) comply with and observe all of the terms, conditions and obligations in relation to the Secured Assets under any present or future law, regulation, license or consent and to comply with all covenants and obligations affecting any of the Secured Assets;
- (3) comply and observe all terms and conditions of the Finance Documents and of all other contracts, agreements and security to which it is a party relating to the Secured Assets;

- (4) not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value (whether monetary or otherwise) or marketability of the Secured Assets (or any of them);
- (5) not take any action which would cause any of the representations made in Clause 6 (*Representations and Warranties*) to be untrue or incorrect in any respect during the Security Period;
- (6) not enter into any onerous or restrictive covenants or obligations affecting any part of the Secured Assets;
- (7) not take any corporate action or other steps or legal proceedings for the winding up or re-organisation of the Company or to appoint an Examiner or receiver or any such analogous steps in relation to the Company in any jurisdiction;
- (8) not take any action in relation to the Secured Assets or this Deed under the provisions of Section 94 of the Act (*Court order for sale*).

7.2.2. Information

- (1) at the cost of the Chargor, provide the Chargee with such information relating to the business of the Chargor and the Secured Assets as the Chargee may reasonably request from time to time;
- (2) notify the Chargee within 10 Business Days of receipt of every material notice, order or proposal given or made in relation to the Secured Assets (including, without limitation, any notice issued under Section 1002 of the Taxes Consolidation Act, 1997) and comply with such notice, order or proposal as the Chargee may reasonably require or approve.

7.3. Vessel's Name and Registration

The Chargor:

- 7.3.1. shall ensure that obligations in respect of registration of the Vessel arising pursuant to all applicable laws are complied with at all times;
- 7.3.2. shall not change the name of the Vessel or do or permit to be done anything, or omit to do or permit the omission of anything the doing or omission of which could or might result in the Vessel's registration being forfeited or imperilled; or
- 7.3.3. shall not register the Vessel or permit its registration under any other flag, in any other registry or at any port referred to herein without the prior written consent of the Chargee.

7.4. Maintenance

The Chargor shall keep the Vessel in a good and efficient state of maintenance 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 Vessel.

7.5. Modification; Removal Or Replacement of Parts; Equipment Owned By Third Parties

The Chargor shall not without the prior written consent of the Chargee:

- 7.5.1. make any modification to the Vessel in consequence of which its structure, type or performance characteristics could or might be adversely altered or its value materially reduced;

- 7.5.2. remove or replace any material part of the Vessel or any equipment in consequence of which the value of the Vessel could or might be materially reduced unless this is replaced with equivalent parts or equipment acquired by the Chargor free of any Encumbrances; or
- 7.5.3. install on the Vessel any equipment owned by a third party which cannot be removed without causing damage to the Vessel.

7.6. Maintenance of Class

The Chargor:

- 7.6.1. shall ensure the Vessel is classified and maintained with the Classification Society and at all times comply with the rules and regulations of the Classification Society without any overdue recommendations and notations; and
- 7.6.2. shall not change (or permit the change of) the Classification Society of the Vessel without the prior written consent of the Chargee.

7.7. Compliance With Regulations

The Chargor shall comply with the provisions of all regulations and requirements (statutory or otherwise) from time to time applicable to the Vessel.

7.8. Surveys

The Chargor shall submit the Vessel to such surveys as may be required for the continued registration of the Vessel and supply to the Chargee copies of all survey reports issued in respect thereof.

7.9. Inspection

The Chargor shall permit the Chargee by surveyors or other persons appointed by it for such purpose to board the Vessel at all reasonable times for the purpose of inspecting its condition and shall afford all proper facilities for such inspections.

7.10. Prevention of and Release From Arrest

The Chargor shall 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 Vessel and, in the event of a writ or libel being filed against the Vessel or the Vessel being arrested pursuant to legal process or in the event of detention of the Vessel in exercise of any such lien or claim as aforesaid, procure the discharge of such writ or libel or the release of the Vessel from such arrest or detention forthwith upon receiving notice thereof, by providing bail or procuring the provision of security or otherwise as the circumstances may require.

7.11. Employment

The Chargor shall not employ the Vessel or permit its employment:

- 7.11.1. 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 in which it is trading, or in carrying illicit or prohibited goods, or in any manner whatsoever which may render it liable to condemnation in a court of law, or to destruction, seizure, confiscation, penalty or sanctions or in the event of hostilities in any part of the world (whether war be declared or not), in carrying any contraband goods; or
- 7.11.2. to enter or trade to any zone which is declared a war zone by any Governmental Authority or by the Vessel's war risks insurers unless the Chargee shall have first given its consent

thereto in writing and there shall have been effected by the Chargor and at its expense such special insurance cover as the Chargee may require.

7.12. Information relating to the Vessel

Without prejudice to the generality of Clause 7.2.2(1), the Chargor shall furnish the Chargee promptly with all such information as it may from time to time require regarding the Vessel, its employment, position and engagements, particulars of all towages and salvages, and copies of charters and other contracts for its employment, or otherwise howsoever concerning it.

7.13. Notification of Certain Events

The Chargor shall notify the Chargee:

- 7.13.1. immediately of any damage to the Vessel requiring repairs the cost of which will or might exceed the Casualty Amount;
- 7.13.2. immediately of any occurrence in consequence of which the Vessel has or may become a Total Loss;
- 7.13.3. promptly of any requisition of the Vessel for hire;
- 7.13.4. immediately of any requirement or recommendation made by any insurer or Classification Society or by any competent authority which is not complied with in accordance with its terms;
- 7.13.5. immediately of any arrest or detention of the Vessel or any exercise or purported exercise of a lien or other claim on the Vessel or the Earnings or compensation for Compulsory Acquisition;
- 7.13.6. immediately of any intended dry docking of the Vessel other than for regular ongoing surveys and repairs; and
- 7.13.7. immediately of the occurrence of an Event of Default.

7.14. Payment of Outgoings and Evidence of Payments

The Chargor shall promptly pay all tolls, dues and other outgoings whatsoever in respect of the Vessel and keep or procure the keeping of proper books of account in respect of the Vessel and the Earnings and, as and when the Chargee may so require, make such books available for inspection on behalf of the Chargee, and 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 tax liability or otherwise as required by law 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.

7.15. Sale of Vessel

The Chargor shall not abandon the Vessel or sell or agree to sell or otherwise dispose of the Vessel or any of the Shares in the Vessel.

7.16. Chartering

The Chargor shall not without the prior written consent of the Chargee, which has been approved in advance by the Chargee, (and, if such consent is given, only subject to such conditions as the Chargee may impose) let the Vessel:

- 7.16.1. on demise or bareboat charter for any period;
- 7.16.2. by any time or consecutive voyage charter for a term which exceeds or which by virtue of any optional extensions therein contained is likely to exceed twelve months' duration;

- 7.16.3. on terms whereby more than two months' hire (or the equivalent) is payable in advance; or
- 7.16.4. below the market rate prevailing at the time when the Vessel is fixed or on any other than arm's length terms.

7.17. Sharing of Earnings

The Chargor shall not enter into any agreement or arrangement whereby the Earnings may be shared with any other person save as agreed to in writing with the Chargee prior to creation of this Deed.

7.18. Manager

The Chargor shall not without the prior written consent of the Chargee (and then only on and subject to such terms as the Chargee may approve) appoint a manager of the Vessel other than the Chargor.

7.19. Notice of Mortgage

The Chargor shall procure that at all times a properly certified copy of the Mortgage (which shall form part of the Vessel's documents) is placed and retained on board the Vessel with its papers and cause such certified copy of the Mortgage to be exhibited to any and all persons having business with the Vessel which might create or imply any commitment or Security Interest whatsoever on or in respect of the Vessel (other than a lien for crew's wages and salvage) and to any representative of the Chargee and shall procure that there is placed and kept prominently displayed in the navigation room and in the master's cabin of the Vessel a framed printed notice in plain type reading as follows:

"NOTICE OF MORTGAGE"

This Vessel is subject to a first mortgage in favour of Allied Irish Banks, p.l.c. Under the said mortgage, neither the owner nor any charterer nor the master of this Vessel nor any other party has any right, power or authority to create, incur or permit to be imposed upon this Vessel any commitments or encumbrances whatsoever other than for crew's wages and salvage".

7.20. Conveyance on Default

The Chargor shall where the Vessel is (or is to be) sold in exercise of any power contained in the Mortgage or otherwise conferred on the Chargee, execute, forthwith upon request by the Chargee, such form of conveyance of the Vessel as the Chargee may require.

7.21. Anti-Drug Abuse

The Chargor, without prejudice to Clause 7.10, shall take all necessary and proper precautions to prevent any infringements of any anti-drugs abuse legislation applicable to the Vessel in any jurisdiction in or to which the Vessel shall be employed or located or trade or which may otherwise be applicable to the Vessel and/or the Chargor.

7.22. Licences

- 7.22.1. The Chargor shall maintain and procure that there is maintained in full force and effect such licences, permits, consents and approvals as are required by the Irish authorities and all other relevant authorities to operate the Vessel as permitted by the relevant authorities and shall renew the same in accordance with good practice in the industry and not do anything whereby the same may be forfeited, cancelled or otherwise prejudiced, and shall at all times furnish a copy of the current licence or licences to the Chargee and advise the Chargee of any amendments thereto from time to time; and
- 7.22.2. The Chargor shall not convey, assign, transfer or otherwise deal in or permit to be conveyed, assigned, transferred or otherwise dealt in, the licences, permits, consents and approvals

referred to in Clause 7.22.1 or convey assign transfer or otherwise deal in, or permit to be conveyed, assigned, transferred or otherwise dealt in, or do or suffer anything to be done which would result in any quota rights or any fish quota applicable to any such licences, permits or consents or to the Vessel to be in any way reduced or otherwise adversely affected.

7.23. Tonnage

The Chargor shall not convey, assign, transfer or otherwise deal in the Tonnage.

7.24. Environmental Compliance

The Chargor shall:

- 7.24.1. comply and procure compliance with all Environmental Laws and Environmental Approvals relating to the Vessel and its operation or management from time to time; and
- 7.24.2. notify the Chargee forthwith upon:
 - (1) any Environmental Claim made against the Chargor or the Chargee, or otherwise in connection with the Vessel; and
 - (2) any Environmental Incident occurring.

7.25. Insurances

7.25.1. Undertakings

The Chargor shall effect in respect of the Vessel in a form and with an insurer or underwriter acceptable to the Chargee:

- (1) insurance for the Vessel on a reinstatement basis in an amount agreed with the Chargee against the following perils;
 - (a) fire and all usual marine risks (including excess risks) insurance
 - (b) war risks (including blocking and trapping, piracy, terrorism, war protection and indemnity, destruction, hijacking, theft, condemnation, confiscation, seizure or requisition of or damage to the Vessel and of any other occurrence of similar nature which shall deprive the Chargor of the use, possession or enjoyment of the Vessel)
- (2) loss of hire insurance (if required by the Chargee);
- (3) freight demurrage and defence cover, and protection and indemnity risks on a full entry with a member of the International Group of P&I Clubs, or for a limit agreed with the Chargee (including pollution risks for a limit acceptable to the Chargee);
- (4) insurance against third party liability, employer's liability and any other insurance required by law;
- (5) mortgagee's interest insurance: it being noted and agreed that the Chargor shall allow the Chargee to take out mortgagee's interest insurance (at the Chargor's expense) in a form and amount, and through such brokers and with such insurers as are from time to time acceptable to the Chargee, at the Chargee's sole discretion;
- (6) such other Insurances as the Chargee reasonably considers a prudent Chargor in the same business as the Chargor would effect; and

- (7) such amendments (or procure such amendments) to the Insurances referred to above as the Chargee reasonably considers necessary.

7.25.2. The Chargor shall:

- (1) effect the Insurances (or procure that the Insurances are effected) (a) in such amounts and upon such terms as shall from time to time be approved in writing by the Chargee and (b) through such brokers (hereinafter, save as regards the brokers employed to effect the mortgagee's interest insurance, called the approved brokers) and with such insurance companies and/or underwriters as shall from time to time be approved in writing by the Chargee provided however that the Insurances against war risks and protection and indemnity risks may be effected with such war risks and protection and indemnity associations as shall from time to time be approved in writing by the Chargee;
- (2) renew all Insurances or procure that they are renewed at least fourteen days before the relevant policies or contracts expire and procure that the approved brokers and/or the war risks and protection and indemnity associations with which any such Insurances are effected shall promptly confirm in writing to the Chargee as and when each such renewal is effected;
- (3) punctually pay or procure payment of all premiums, calls, contributions or other sums payable in respect of the Insurances and produce or procure production of all relevant receipts when so required by the Chargee;
- (4) arrange for the execution of such guarantees as may from time to time be required by any protection and indemnity or war risks association;
- (5) not employ the Vessel or suffer the Vessel 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 the extra premium or otherwise as the insurers may prescribe;
- (6) procure that the name of the Chargee shall be noted on each policy of insurance and protection and indemnity entry relating to the Vessel as required by the Chargee;
- (7) use all reasonable endeavours to procure that each policy of insurance or letter of undertaking shall contain a standard mortgagee clause whereby the insurance shall not be vitiated or avoided as against the Chargee notwithstanding that it could otherwise be so against the Chargor and for so long as such provisions are available in the Irish insurance market; and
- (8) use all reasonable endeavours to procure that each policy of insurance shall contain a provision whereby the insurance shall not be invalidated as against the Chargee for non-payment of any premium due without his insurer and/or insurance broker first giving to the Chargee not less than 14 days written notice for so long as such provisions are available in the Irish insurance market or such other form acceptable to the Chargee.

7.25.3. Receipts for the payment of premia for such policies are to be forwarded to the Chargee by the Chargor from time to time on demand but in any event at least annually.

7.25.4. **Application of Insurance Proceeds**

- (1) All Insurance Proceeds shall (subject to the rights and claims of any person having prior rights to such monies), prior to the occurrence of an Event of Default or demand

being made be applied on and subject to such terms and conditions as the Chargee may impose to meet the costs of repairing, reconstructing or replacing the Vessel or other property damaged or destroyed.

- (2) After the occurrence of an Event of Default or demand being made the Chargor shall hold such monies upon trust for the Chargee pending payment to the Chargee for application in accordance with Clause 10 (*Application of proceeds*) and the Chargor waives any right it may have to require that any such monies are applied in reinstatement of any part of the Secured Assets.

7.26. Earnings and Earnings Account

7.26.1. Earnings

Where this Deed provides for a fixed charge and/or assignment over the Earnings, the Chargor shall:

- (1) procure that the Earnings are promptly collected;
- (2) procure that the Earnings are paid into the Earnings Account;
- (3) not, without the prior written consent of the Chargee, purport to charge, sell, assign, factor, transfer, discount or otherwise dispose of, or permit to subsist, any charge or lien over the Earnings or any interest in the Earnings in favour of any other person;
- (4) not, without the prior written consent of the Chargee permit or agree to any variation of the rights attaching to the Earnings or any of them;
- (5) not, without the prior written consent of the Chargee, release, exchange, compound, set-off, grant time or indulgence in respect of or in any other manner deal with all or any of the Earnings save as expressly provided in this Deed; and
- (6) at its own expense institute, continue or defend all such proceedings in connection with the Earnings as the Chargee may require.

7.26.2. Earnings Account

(1) General

The Chargor covenants and undertakes with the Chargee that during the Security Period the Chargor:

- (i) it shall, unless the Chargee otherwise agrees in writing, maintain each Earnings Account with a branch of the Chargee; and
- (ii) shall not, without the Chargee's prior written consent, permit or agree to any material variation of the rights attaching to an Earnings Account which is reasonably likely to prejudice the rights of the Chargee or close an Earnings Account.

(2) Withdrawals from Earnings Account

Subject to the provisions of sub-clause (3), during the Security Period, the Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on the Earning Accounts subject to the terms of the Finance Documents.

- (3) After the occurrence of an Event of Default, the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on the Earning Account except with the prior written consent of the Chargee.

7.27. Requisition Compensation

Any Requisition Compensation shall at all times be payable to the Chargee for application towards repayment of the Secured Obligations in accordance with Clause 2 (*Payment Provisions*).

7.28. Pay outgoings

Pay all rents, rates, Taxes, assessments, impositions and outgoings whatsoever, whether governmental, municipal or otherwise as may be imposed upon or payable in respect of the Secured Assets as and when they shall become payable and on demand, produce the receipt for such payments;

7.29. VAT

Ensure that all value added tax (within the meaning of the Value Added Tax Act, 1972 and any subsequent re-enactment, modification or amendment thereof) liabilities which if unpaid would or might with the service of any notice or otherwise have priority over the security hereby created or require payment by the Chargee shall be paid and discharged when the same must be paid;

7.30. Notice of Event of Default

Immediately notify the Chargee in writing of the occurrence of any Event of Default or of the occurrence of any event which with the lapse of time, giving of notice or determination of materiality (or any combination of the foregoing) will or may constitute an Event of Default.

8. ENFORCEMENT OF SECURITY

8.1. When enforceable

8.1.1. The Security shall become enforceable immediately upon the occurrence of an Enforcement Event and the Secured Obligations will be deemed to have become due and payable.

8.1.2. After the Security has become enforceable the Chargee may in its absolute discretion enforce all or any part of the Security in such a manner as it sees fit and the Chargee shall cease to be under any further commitment to the Chargor.

8.2. Statutory powers

8.2.1. At any time after the Security has become enforceable (in accordance with this Clause 8 (*Enforcement of Security*)):

- (1) the statutory power of sale conferred by section 100 (*Power of sale*) of the Act free from restrictions contained in section 100(1), (2), (3) and (4) and without the requirement to serve notice (as specified in the final proviso to section 100(1)); and
- (2) the incidental powers of sale conferred by section 102 (*Incidental powers*)

will immediately arise and be exercisable by the Chargee and/or any Receiver. The provisions of section 96(1)(c) of the Act shall not apply to this Deed.

8.2.2. In particular and without prejudice to the generality of Clause 8.2.1, upon the occurrence of an Enforcement Event, the Chargee may exercise its powers as mortgagee and charge of the Secured Assets including without limitation:

- (1) 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 Chargor or any other person in possession of the Vessel forthwith upon demand to surrender the Vessel to the Chargee without legal process;
- (2) to require that all policies, contracts and other records in respect of the Insurances (including details of and correspondence concerning outstanding claims) be forthwith delivered to such brokers as the Chargee may nominate;
- (3) to collect, recover, compromise and give a good discharge for all claims then outstanding or thereafter arising under the Insurances or any of them and to take over or institute or defend or settle or abandon (using the names of the Chargor, if necessary) all such proceedings in connection therewith as the Chargee in its absolute discretion thinks fit and to permit the brokers through whom collection or recovery is effected to charge the usual brokerage therefor;
- (4) to discharge, compound, release or compromise claims against the Chargor in respect of the Vessel which have given or may give rise to any charge or lien on the Vessel or which are or may be enforceable by proceedings against the Vessel;
- (5) to sell the Vessel or any of the Shares in the Vessel therein with or without the benefit of the Tonnage by public auction or private contract at such place and upon such terms as the Chargee 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;
- (6) pending sale of the Vessel to manage, insure, maintain and repair the Vessel and to employ, sail or lay up the Vessel in such manner and for such period as the Chargee in its absolute discretion deems expedient and for the purposes aforesaid the Chargee shall be entitled to do all acts and things incidental or conducive thereto and in particular to enter into such arrangements respecting the Vessel, its insurance, management, maintenance, repair, classification and employment in all respects as if the Chargee were the owner of the Vessel and without being responsible for any loss thereby incurred; and
- (7) to recover from the Chargor on demand any such losses, costs or expenses as may be incurred by the Chargee in or about the exercise of the powers vested in the Chargee under this Clause 8 (*Enforcement of Security*).

8.2.3. The Chargee and each Receiver is entitled to all the rights, powers, privileges and immunities conferred by the Act.

8.2.4. All of the powers, authorities and discretions which are conferred by this Deed upon a Receiver (either expressly or impliedly) may be exercised after the security constituted by this Deed becomes enforceable by the Chargee in relation to all or any part of the Secured Assets both before and after the appointment of a Receiver.

8.3. Mortgagee in Possession

8.3.1. In addition to the statutory powers incidental to the estate or interest of mortgagees contained in the Act as more particularly detailed in Clause 8.2 (*Statutory powers*) and at any time after the Security has become enforceable, the Chargee may, without further notice or demand and without the need to obtain the consent of the Chargor or obtain an order for possession under section 97 (*Taking possession*) and section 98 (*Abandoned property*) of the Act, enter into possession of the Vessel and/or the other Secured Assets.

8.3.2. Neither the Chargee nor any Receiver will be obliged to take any steps to sell or lease the Vessel or other Secured Assets (or any part thereof) and the provisions of section 97 of the Act (*Taking possession*), section 99(1) (*Mortgagee in possession*) and section 101 (*Applications under sections 97 and 100*) of the Act shall not apply to this Deed.

8.4. No liability

8.4.1. Save as provided for in section 103 (*Obligations on selling*) of the Act, neither the Chargee nor any Receiver will be liable for any loss or damages which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct) in relation to all or any part of the Secured Assets.

8.4.2. Without prejudice to the generality of Clause 8.4.1 above, neither the Chargee nor any Receiver will be liable to account as mortgagee in possession in respect of the Secured Assets or any part thereof nor be liable for any loss on realisation or in connection with the Secured Assets or for any default or omission for which a mortgagee in possession might be liable.

8.5. Protection of third parties

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

- (1) whether the Secured Obligations have become payable;
- (2) whether any power which the Chargee or a Receiver is purporting to exercise has become exercisable;
- (3) whether any of the Secured Obligations remain outstanding under the Finance Documents (or any of them); or
- (4) how any money paid to the Chargee or a Receiver is to be applied;

and all protections to purchasers contained in sections 105(1), 106 and 108(5) of the Act shall apply to all persons (including a purchaser) dealing with the Chargee or any Receiver in like manner as if the statutory powers of sale and appointing a receiver had not been varied or extended by this Deed.

8.5.2. No purchaser from the Chargee or any Receiver, delegate or sub-delegate shall be entitled to rely on Section 105(2) of the Act which is disapplied by this Deed.

9. RECEIVERS

9.1. Appointment of a receiver

9.1.1. At any time after the Chargor so requests or the Security becomes enforceable, the Chargee may, without the need for the occurrence of any of the events specified in paragraphs (a) to (c) of section 108(1) (*Appointment of a receiver*) of the Act, appoint under seal or under the hand of a duly authorised officer of the Chargee, any person or persons considered by it to be competent to be a receiver or a receiver and manager (hereinafter called a **Receiver**

which expression will, where the context so admits, include the plural and any substituted receiver or receiver and manager) of all or any part of the Secured Assets and shall be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act.

9.1.2. If at any time there is more than one Receiver of all or part of the Secured Assets, each such Receiver may, unless otherwise stated in any appointment document) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of each other Receiver.

9.1.3. All of the powers, authorities and discretions which are conferred by this Deed, either expressly or impliedly, upon any Receiver may be exercised by the Chargee after the Security becomes enforceable in relation to all or part of the Secured Assets without first appointing a Receiver or notwithstanding the appointment of a Receiver of the Secured Assets, or any part thereof.

9.2. Receiver as agent

Any Receiver so appointed shall be the agent of the Chargor and the Chargor will be solely responsible for his remuneration, acts, defaults, omissions and losses and for all costs, expenses, liabilities incurred by him. The Chargee shall not incur any liability by reason of the appointment of a Receiver or for any other reason.

9.3. Remuneration

A Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Chargee (but without being limited to a maximum rate of commission as prescribed in sub-section 108(7) (*Appointment of a Receiver*) of the Act) and the Chargee may direct payment thereof out of the Secured Assets but the Chargor alone will be liable for payment of such remuneration.

9.4. Removal of a Receiver

The Chargee may in writing remove any Receiver so appointed and appoint another person or person as Receiver either in place of a Receiver whose appointment has been terminated or in addition to any Receiver already appointed.

9.5. Powers of a Receiver

A Receiver so appointed will have and be entitled to exercise, in addition to all powers conferred by the Act (except where expressly disapplied in this Deed) and pursuant to section 108(3) of the Act, each of the additional powers, rights and obligations as set forth in Schedule 1. Section 108(4) of the Act shall not apply to this Deed.

10. APPLICATION OF PROCEEDS

10.1. Any monies received by the Chargee and/or any Receiver after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security and notwithstanding the provisions of section 109 (*Application of money received*) of the Act) be applied in the following order:

10.1.1. in or towards payment of all costs, charges and expenses of and incidental to the appointment of any Receiver and the exercise of all or any of the above powers and of all outgoings properly paid by the Receiver

10.1.2. in or towards payment of all remuneration due to any Receiver under or in connection with this Deed or the Secured Assets at such rate as may be agreed between the Receiver and the Chargee;

10.1.3. in payment in or towards the balance of the Secured Obligations.

10.1.4. in payment of the surplus (if any) to the Chargor or other person entitled to it.

10.2. The provisions of Section 109 (*Application of money received*) of the Act should not apply to this Deed.

10.3. This Clause is without prejudice to the right of the Chargee to recover any shortfall from the Chargor.

11. CONSOLIDATION OF ACCOUNTS AND SET-OFF

11.1. Consolidation

The Chargor agrees that the Chargee may at any time without notice and notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of the Chargor's existing accounts wheresoever located (including accounts in the name of the Chargor jointly with others (and including the Earnings Account together with any credit balance) whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and in any currency.

11.2. Set-off

The Chargee may set off any matured obligation due from the Chargor against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of set off.

12. PROTECTION OF SECURITY

12.1. Protection Action

The Chargor shall, at its own expense, take whatever action as may be required by the Chargee:

12.1.1. to perfect or protect the Security intended to be created by this Deed; and

- 12.1.2. to facilitate the realisation of the Secured Assets or the exercise of any right, power or discretion exercisable by the Chargee or any such Receiver in respect of the Secured Assets,

including the execution, acknowledgement or delivery of any agreement, transfer, mortgage, charge or assignment, notice, or the making of a registration, in each case as the Chargee may direct.

12.2. Remedy of Defaults

Without prejudice to the generality of Clause 12.1 (*Protective Action*) if the Chargor:

- 12.2.1. does not comply with the provisions of Clause 7.25 (*Insurances*) the Chargee shall be entitled (but not bound) to effect or to replace and renew and thereafter maintain all or any of the Insurances so as to comply with Clause 7.25 (*Insurances*) in such manner as in its reasonable opinion it may think fit or alternatively to require the Vessel (at the Chargor's risk) to remain in, or to proceed to and to remain in a port designated by the Chargee until such provisions are fully complied with;
- 12.2.2. fails to comply with any of the provisions of Clause 7.4 (*Maintenance*) or 7.8 (*Surveys*), the Chargee shall be entitled (but not bound) to arrange for the carrying out of such maintenance, repairs or surveys as it may deem expedient or necessary; and
- 12.2.3. fails to comply with any of the provisions of Clause 7.10 (*Prevention of and Release From Arrest*) the Chargee 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 Vessel.

12.3. No Prejudice

The Security will be in addition to and will not operate so as in any way to prejudice or affect any other security which the Chargee may now or at any time in the future hold for or in respect of all or any part of the Secured Obligations, nor will any such other security or any lien to which the Chargee may be otherwise entitled or the liability of any person not party to this Deed for all or any part of the Secured Obligations be in any way prejudiced or affected by this security. The Chargee will have full power at its discretion to give time for payment to or make any other arrangement with any such other person without prejudice to the liability of the Chargor under this Deed.

13. POWER OF ATTORNEY

13.1. Power of attorney

- 13.1.1. The Chargor, by way of security, hereby irrevocably appoints the Chargee, each Receiver and any of their Delegates, jointly and also severally, to be its attorney:

- (1) to take any action which the Chargor is obliged to take under this Deed, including under Clause 4 (*Further Assurances*);
- (2) to do all such acts or things as may be required by the Chargee or any Receiver under this Deed in exercise of any of their powers.

- 13.1.2. The Chargor ratifies and confirms all things done by any attorney appointed under this Clause in the exercise or purported exercise of all or any of such attorney's powers.

13.2. Delegation

The Chargee or any Receiver may delegate by power of attorney or in any other manner, to any person, any right, power or discretion exercisable by it under this Deed upon any terms (including the

power to sub-delegate) as it may deem fit but no such delegation shall preclude the subsequent exercise of such power by the Chargee or any Receiver itself or himself or preclude the Chargee or the Receiver from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Chargee or the Receiver at any time.

13.3. Liability

Neither the Chargee nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such Delegate.

14. COSTS AND EXPENSES

14.1. Transaction expenses

The Chargor shall promptly on demand reimburse the Chargee (and every Receiver and Delegate) the amount of all costs and expenses (including legal fees) incurred by it in connection with:

14.1.1. the negotiation, preparation, execution and perfection of this Deed and any documents referred to in this Deed; and

14.1.2. a request for a waiver, amendment or consent, the evaluation, negotiation or implementation of that waiver, amendment or consent.

14.2. Taxes

The Chargor shall promptly pay all stamp, registration and other Taxes to which this Deed or any judgment given in connection with this Deed is or at any time may be subject and shall indemnify the Chargee against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Taxes.

14.3. Indemnity

The Chargor shall promptly indemnify the Chargee and every Receiver and Delegate against any cost, loss or expenses (including legal fees) and liabilities (including VAT thereon) incurred by any of them as a result of:

14.3.1. the taking, holding, protection or enforcement of this Deed and the Security;

14.3.2. anything done in the exercise of any of the rights, powers, discretions and remedies vested in the Chargee and each Receiver and Delegate by this Deed or by law.

15. CURRENCY CONVERSION AND INDEMNITY

15.1. Currency Conversion

All monies received or held by the Chargee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Chargee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the then prevailing spot rate of exchange (as conclusively determined by the Chargee) for purchasing the currency to be acquired with the existing currency).

15.2. Currency Indemnity

No payment to the Chargee (whether under any judgment or court order or otherwise) will discharge the obligation or liability of the Chargor in respect of which it was made unless and until the Chargee receives payment in full in the currency in which such obligation or liability was incurred, and to the extent that the amount of any such payment, on actual conversion into such currency, falls short of

such obligation or liability expressed in that currency, the Chargor shall indemnify and hold harmless the Chargee from and against any loss it suffers or incurs as a result of any such shortfall.

16. MISCELLANEOUS PROVISIONS

16.1. Suspense account

All monies received, recovered or realised by the Chargee under this Deed (including the proceeds of any conversion of currency) may, at the discretion of the Chargee, be credited to any interest-bearing suspense account for so long as the Chargee may determine (with interest accruing thereon) without the Chargee having any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Obligations.

16.2. New accounts

If the Chargee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Security Asset and/or the proceeds of sale of any Security Asset:

16.2.1. the Chargee may open a new account for the Chargor; and

16.2.2. if the Chargee does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice,

and as from that time, all payment made to the Chargee shall be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

16.3. Amendments

Any provision of this Deed may be amended, supplemented, varied, modified, released or discharged only if the Chargee and the Chargor so agree in writing.

16.4. Unfettered discretion

Save as otherwise stated in this Deed, any liability or power which may be exercised or any determination which may be made under this Deed by the Chargee may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

16.5. Severability

All the terms and provisions of this Deed are distinct and severable, and if any term or provision is held unenforceable, illegal or void in whole or in part (or any of the Security intended to be created by or pursuant to this Deed is ineffective) by any court, regulatory authority or other competent authority it shall to that extent be deemed not to form part of this Deed, and the enforceability, legality and validity of the remainder of this Deed will not be affected.

17. RIGHTS AND REMEDIES

17.1. Waiver and forbearance

17.1.1. No failure or delay by the Chargee or any Receiver to exercise any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. A waiver or consent by the Chargee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

17.1.2. The rights of the Chargee or any Receiver under this Deed will not be prejudiced or restricted by any indulgence or forbearance extended to the Chargor or other parties including a

release of any person or persons (whether or not a party hereto and whether or not such person or persons are jointly and/or severally liable with the Chargor) in respect of the Secured Obligations or of any other security without prejudice either to the Security or to the liability of the Chargor for the Secured Obligations.

17.2. Remedies Cumulative

The rights and remedies of the Chargee and any Receiver under this Deed are cumulative and not exclusive of any rights or remedies provided by law.

17.3. Company intent

The Chargor expressly confirms that it intends that the Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available or owing under or in connection with any of the Finance Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any increase in any interest rate; any other variation or extension of the purposes for which any such facility or amount might be available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

18. ASSIGNMENT

- 18.1. The assignment provisions of the Bank's General Terms and Conditions shall apply mutatis mutandis to this Deed as if written out in full herein. The Chargor may not assign or transfer nor enter into any trust arrangement with any third party in respect of all or any of its rights, benefits or obligations under this Deed.
- 18.2. The Chargee may assign, charge or transfer (by way of novation/securitisation or otherwise) or sub-participate all or any part of its rights and benefits and obligations under this Deed to any person and the Chargor hereby consents to any such assignment, charge, transfer or sub-participation. The Chargee will be entitled to impart any information concerning the Chargor to any assignee, transferee or successor in title.
- 18.3. This Deed shall be binding upon and inure to the benefit of the Chargor and its respective successors and permitted assigns and references in this Deed to it shall be construed accordingly.

19. NOTICES

19.1. Communications in writing

Any notice or other communication to be made under, or in connection with, this Deed shall be in writing, in the English language addressed to the relevant party.

19.2. Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

The Chargee: Name: Allied Irish Banks, p.l.c.

Address: Bankcentre
Ballsbridge
Dublin 4

Attention: Karen Kincaid

Fax No: +353 1 [•]

The Chargor: Name: Supreme Fishing Company Limited

Address: Callystown, Clougherhead, County Louth

Attention: Niall Connolly

Fax No: [•]

or to such other address or fax number as may be notified to the Chargee by not less than five Business Days' notice.

19.3. Delivery

19.3.1. Any such notice or other communication made or delivered by one party to another under or in connection with this Deed will only be effective:

- (1) if delivered by hand, on delivery;
- (2) if sent by fax, upon transmission;
- (3) in the case of posting, 48 hours after posting (and proof that the envelope containing the notice or communication was properly addressed, prepaid and posted will be sufficient evidence that the notice or other communication has been duly served or given);

19.3.2. Any notice or other communication to be made or delivered to the Chargee will be effective only if it is marked for the attention of the department or officer of the Chargee referred to in Clause 19.2 above (*Addresses*) (or any substitute department or officer as the Chargee shall specify for this purpose).

19.4. Electronic communication

19.4.1. Any communication to be made between the Chargor and the Chargee under or in connection with this Deed may be made by electronic mail or other electronic means, if the Chargor and the Chargee:

- (1) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;
- (2) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and to confirm receipt of information by means; and
- (3) notify each other of any change to their address or any other such information supplied by them.

19.4.2. Any electronic communication made between the Chargor and the Chargee will be effective only when actually received in readable form and if properly addressed as specified.

20. COUNTERPARTS

This Deed may be executed in counterparts and each such counterpart taken together shall be deemed to constitute one and the same instrument.

21. RELEASE OF SECURITY

21.1. Release of security

Subject to and without prejudice to Clause 21.2 (*Retention of security*), upon the expiry of the Security Period, the Chargee shall, at the request and cost of the Chargor, take whatever action is necessary to release or re-assign and discharge the Secured Assets from the Security.

21.2. Retention of security

If any payment or discharge of the Secured Obligations is, in the reasonable opinion of the Chargee, liable to be avoided or invalidated under any enactment relating to insolvency, liquidation or otherwise (without limitation), the Chargee may refuse to grant any release of the Security for such further period as the risk of such avoidance or invalidity continues.

21.3. Reinstatement

Where any discharge in respect of the Secured Obligations is made, in whole or in part or any arrangement is made on faith of any payment, security, assurance or otherwise, which is avoided or must be restored on insolvency, liquidation or otherwise, the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred.

21.4. Variation

This Deed may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties to this Deed.

22. GOVERNING LAW

Governing Law

This Deed and all relationships created by it and arising out of or in connection with it, together with all Disputes, will in all respects be governed by and construed in accordance with the laws of Ireland.

23. ENFORCEMENT

23.1. Jurisdiction

23.1.1. The Chargor hereby agrees for the exclusive benefit of the Chargee that any Proceedings brought against the Chargor with respect to this Deed may be brought in the High Court in Ireland or such other competent court of Ireland as the Chargee may elect, and the Chargor waives any objection to Proceedings in such courts whether on grounds of venue or on the grounds that Proceedings have been brought in any inconvenient forum. The Chargor undertakes to enter an unconditional appearance within 14 days after the completion of any service or process in any Proceedings. The Chargor hereby consents to the service by post of any process issued in connection with this Deed. Nothing in this Deed will affect the right to serve process in any other manner permitted by law.

23.1.2. Nothing contained in this Deed will limit the right of the Chargee to take Proceedings against the Chargor in any other court of competent jurisdiction, nor will the taking of any Proceedings in any one or more jurisdictions preclude the taking by the Chargee of Proceedings in any other jurisdiction whether concurrently or not.

23.2. Service of Process

Without prejudice to any other mode of service allowed under any relevant law, each Party (other than a Party incorporated in Ireland) irrevocably appoints Art Kavanagh of Glenlee, Killybegs, County Donegal as its agent for service of process in relation to any proceedings before the Irish courts in connection with this Deed.

IN WITNESS whereof this Deed has been duly executed by the parties to it on the date set out at the beginning of this Deed.

EXECUTED and DELIVERED as a DEED by
SUPREME FISHING COMPANY LIMITED
(incorporated in Northern Ireland with company number NI021367)
acting by a single director in the presence of a witness

Witness signature:

Print name:

Occupation:

Address:

FRIT KAVANAGH

FINANCIAL CONSULTANT

KILLYBEGS

Director Name: Niall Connolly

Director name: Seamus Connolly

SIGNED for and on behalf of

ALLIED IRISH BANKS, p.l.c.

in the presence of:

SCHEDULE 1

POWERS OF A RECEIVER

1. ***Possession***

to take immediate possession of, get in and collect the property in respect of which the Receiver is appointed and to make such demands and take such proceedings as may seem expedient for that purpose, and to take possession of the property over which the Receiver is appointed with like rights;

2. ***Realisation***

to sell, realise or otherwise dispose of the Vessel and/or the other Secured Assets and to make substitutions of, or improvements to, the Chargor's plant and machinery as the Receiver thinks fit;

3. ***Manage***

to carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying any business of the Chargor in any manner the Receiver thinks fit;

4. ***Appoint advisors***

to appoint and discharge managers, officers, agents, professional advisers, consultants, servants, workmen, employees and others for the purposes specified in this Schedule upon such terms as to remuneration or otherwise as the Receiver thinks fit and to remove any person so appointed to any such position by the Chargor;

5. ***Borrow money/lend money***

to raise and borrow money or incur any other liability, either unsecured or on the security of any Secured Asset or otherwise and generally on any terms and for whatever purpose the Receiver thinks fit and to lend money or advance credit to any customer of the Chargor;

6. ***Sell***

to grant rights, options or easements over, dispose of, convert into money and realise any Secured Asset by public auction or private contract and generally in any manner and on any terms the Receiver thinks fit. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period he or she thinks fit. Fixtures, plant and machinery may be severed and sold separately from the property containing them without the consent of the Chargor;

7. ***Lease***

to let, hire, lease, licence or grant any interest in the Vessel and/or any Secured Asset for any term and at any rent (with or without a premium) the Receiver thinks fit and to vary the terms, surrender or accept a surrender of any lease or licence of any Secured Asset on any terms which the Receiver thinks fit (including the payment of money to a lessee on a surrender) and to exercise on behalf of the Chargor, and without the consent of or notice to the Chargor, all the powers conferred on the Chargor by any legislation from time to time in force in any relevant jurisdiction relating to any part of the Secured Assets.

8. ***Share calls***

where the Chargor is a company, to require the Chargor, or the directors of the Chargor, to make calls conditionally or unconditionally upon the shareholders of the Chargor in respect of any of its uncalled capital and enforce payment of any call so made by action (in the name of the Chargor or the Receiver as the Receiver may think fit) or otherwise;

9. ***Receivables***

to sell or assign all or any of the Earnings in respect of which the Receiver is appointed in such manner, and generally on such terms and conditions, as the Receiver thinks fit.

10. ***Voting rights***

to exercise in respect of any Secured Asset all voting or other powers or rights in such manner as the Receiver thinks fit;

11. ***Shipping Registry***

to exercise on behalf of the Chargor and in the name of the Chargor all powers and rights of the Chargor relevant to effecting and necessary to effect the registration in the Shipping Registry of any Mortgage created on the Vessel, of the crystallisation of any floating charge or his or her appointment as Receiver;

12. ***Compromise***

to settle, adjust, refer to arbitration, allow time for payment, compromise and arrange any claim, contract, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Secured Asset;

13. ***Legal actions***

to bring, prosecute, enforce, defend and abandon any action, suit or proceedings both in the Receiver's own name and in the name of the Chargor in relation to any Secured Asset which the Receiver thinks fit;

14. ***Receipts***

to give a valid receipt for any money and execute any assurance or thing that may be necessary or desirable for realising any Secured Asset;

15. ***Company reorganisation***

where the Chargor is a company, to form a subsidiary of the Chargor, arrange for any such subsidiary to trade or cease to trade as the Receiver sees fit, in his or her capacity as shareholder and transfer to that subsidiary any secured asset and sell or otherwise dispose of any such subsidiary;

16. ***Delegation***

to delegate the Receiver's powers;

17. ***Material Contracts***

To enter into, abandon, perform, repudiate, rescind, vary or cancel any material contracts as the Receiver thinks fit;

18. ***Insurances***
- to effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the Insurances required to be maintained under any Finance Document entered into by the Chargor;
19. ***Taxes***
- to make any election for value-added tax purposes that the Receiver thinks fit and to run the tax affairs of the Chargor in any manner that the Receiver thinks fit;
20. ***Intellectual Property***
- to take all steps necessary to effect any registration, renewal, application or notification that the Receiver thinks fit to maintain in force or protect any intellectual property;
21. ***Settle accounts***
- to redeem any prior Security Interest and to settle and pass the accounts to which that Security Interest relates. Any accounts so settled and passed are conclusive and binding on the Chargor, and any money so paid shall be taken to be an expense properly incurred by him or her;
22. ***Protect and manage***
- to effect any repair or insurance and do any other act which the Chargor might do in the ordinary conduct of its business to protect or improve any Secured Asset and to arrange for or provide any service proper for the efficient use or management of the Secured Assets.
23. ***Use the Chargor's name***
- to use the name of the Chargor when exercising any of the rights, powers or discretions conferred on the Receiver;
24. ***Company seal***
- where the Chargor is a company, to use the Chargor's seal;
25. ***Insolvency***
- to rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Chargor and to receive dividends, and to accede to the trust deeds for the creditors of any such person;
26. ***Payments***
- to make any payment which is necessary or incidental to the performance of his or her functions;
27. ***Other rights***
- to do all other acts and things which he or she may consider desirable or necessary for realising any Secured Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver;
- to exercise in relation to a Secured Asset all the rights, powers and authorities that he or she could exercise if he or she were the absolute beneficial owner of the Secured Asset;
- to do all acts and to execute in the name and on behalf of the Chargor any deed, receipt or other document;

to draw, accept, make or endorse any bill of exchange or promissory note in the name of and on behalf of the Chargor.

SCHEDULE 2

Part I

EARNINGS ACCOUNT

<i>Security Provider</i>	<i>Account Bank Name & Address</i>	<i>Account & Number</i>	<i>Name Account Type</i>	<i>Sort Code</i>	<i>IBAN/ABA Number</i>

Part II

INSURANCE

<i>Security Provider</i>	<i>Insurer Name, Address & Type of Policy Contact Name</i>	<i>Policy Number</i>	<i>Policy Value</i>

SCHEDULE 3

Part I

NOTICE OF ASSIGNMENT AND LOSS PAYABLE CLAUSE FOR INSURANCE POLICIES

QBE Insurance (Europe) Limited

1/a British Marine Insurance

Plantation place

30 Fenchurch Street

London

EC3M3BD

United Kingdom

Supreme Fishing Company Limited in its capacity as legal and beneficial owner(s) (the **Owner(s)**) of the MFV Stella Nova registered under the Irish Flag with official number DA57 (the **Vessel**) and Allied Irish Banks, p.l.c. in its capacity as chargee (the **Chargee** to include where the context so admits, its successors and assigns) of the Vessel:-

1. **HEREBY GIVE NOTICE** that by a deed of covenants dated _____ the Owner(s) charged all of its right, title and interest present and future in and to the Insurances and assigned insofar as capable of assignment all of its right, title and interest present and future in and to the benefit of the Insurances in respect of the Vessel in favour of the Chargee.
2. Until the Chargee notifies British Marine Insurers (the **Insurers**) to the contrary all claims hereunder shall be paid to the Chargee (unless the Chargee has consented in writing to the payment to the repairer of the Vessel of such claims by you).
3. Until the Chargee notifies the Insurers to the contrary, the Chargee shall be named on each policy of insurance relating to the Vessel.
4. The Chargee shall be advised:
 - (a) if any Insurer cancels or gives notice of cancellation of the entry at least 14 days before such cancellation is to take effect;
 - (b) of any alteration in or termination or expiry of the entry at least 14 days before any such alteration, termination or expiry is to take effect;
 - (c) of any default in the payment of any premium or call or failure to renew the entry 14 days prior to the date of renewal thereof; and
 - (d) of any act or omission or of any event of which any Insurer has knowledge and which might invalidate or render unenforceable in whole or in part any such entry.

OR

Signed for and on behalf of
Supreme Fishing Company Limited

Signed by:

Part II

ACKNOWLEDGEMENT FROM INSURER

To: Allied Irish Banks, p.l.c. (the **Chargee**)
Bankcentre, Ballsbridge, Dublin 4

CC Supreme Fishing Company Limited
Suite 207 Arthur House, 41 Arthur Street, Belfast, BT1 4GB, Northern Ireland

The QBE Insurance (Europe) Limited British Marine Insurance (the **Insurer**) hereby agrees to the notice of assignment from Supreme Fishing Company Limited (the **Owner**) dated _____ (the **Notice of Assignment**) and the Insurer hereby acknowledges promptly to:

1. advise the Chargee if any Insurer cancels or gives notice of cancellation of any insurance or entry;
2. advise the Chargee of any alteration in or termination or expiry of any such insurance or entry;
3. advise the Chargee of any default in the payment of any premium or call or failure to renew any such insurance or entry 14 days prior to the date of renewal thereof; and
4. advise the Chargee of any act or omission or of any event of which any Insurer has knowledge and which might invalidate or render unenforceable in whole or in part any such policy or entry; and
5. advise the Chargee to hold all policies, cover notes and certificates of entry issued and hereafter to be issued and any endorsements thereto to the order of the Chargee.

Signed _____ for _____ and _____ on _____ behalf _____ of
QBE Insurance (Europe) Limited British Marine Insurance

Part III

NOTICE OF ASSIGNMENT AND
LOSS PAYABLE CLAUSE

FOR EACH CERTIFICATE OF ENTRY IN A PROTECTION AND INDEMNITY ASSOCIATION

[insert name of Association] (the Association)

[insert address]

Supreme Fishing Limited in its capacity as legal and beneficial owner(s) (the **Owner(s)**) of the MFV Stella Nova registered under the Irish Flag with official number DA57 the **Vessel**) and Allied Irish Banks, p.l.c., in its capacity as chargee (the **Chargee** to include where the context so admits, its successors and assigns) of the Vessel **HEREBY GIVE NOTICE** that by a deed of covenants dated [REDACTED], the Owner(s) charged all of its right, title and interest present and future in and to the Insurances and assigned insofar as capable of assignment all of its right, title and interest present and future in and to the benefit of the Insurances in respect of the Vessel in favour the Chargee.

Until the Chargee notifies the Association to the contrary, all claims hereunder otherwise payable to the Owner shall be paid to the Chargee save as otherwise consented to in writing by the Chargee.

Until the Chargee notifies the Association to the contrary, the Chargee shall be named on each policy of insurance relating to the Vessel.

The Chargee shall be advised:

- (a) if the Association cancels or gives notice of cancellation of the entry at least 14 days before such cancellation is to take effect;
- (b) of any alteration in or termination or expiry of the entry at least 14 days before any such alteration, termination or expiry is to take effect;
- (c) of any default in the payment of any premium or call or failure to renew the entry 14 days prior to the date of renewal thereof; and
- (d) of any act or omission or of any event of which the Association has knowledge and which might invalidate or render unenforceable in whole or in part any such entry.

OR

Signed for and on behalf of
Supreme Fishing Company Limited

Signed by:

[insert name of individual(s)]

Part IV

ACKNOWLEDGEMENT FROM PROTECTION AND INDEMNITY ASSOCIATION

To: Allied Irish Banks, p.l.c. (the **Chargee**)
Bank Centre, Ballsbridge, Dublin 4

CC Supreme Fishing Company Limited
Suite 207 Arthur House, 41 Arthur Street, Belfast, BT1 4GB, Northern Ireland

The (the **Association**) hereby acknowledges receipt of a notice of assignment from
Supreme Fishing Company Limited (the **Owner(s)**) dated [] in respect of a deed of covenants dated

Signed for and on behalf of

Part V

NOTICE OF ASSIGNMENT¹

To: **THE LICENSING AUTHORITY FOR SEA-FISHING BOATS**
Sea Fisheries – Administration Division
Department of Agriculture, Food and the Marine
Clogheen
Clonakilty
Co. Cork

[We/I], [Company or Individual name and address] (the **Owner**) hereby give notice that by a Deed of Covenants dated [] between the Owners and Allied Irish Banks, p.l.c. (the **Bank** to include where the context so admits, its successors and assigns) the Owner mortgaged and charged to the Bank any and all licences issued to them in relation to the MFV [insert name of vessel] and the operation of it (the **Licences**) and all its rights to fish by reference to a quota and/or tonnage (which may include kilowatts) (the **Tonnage**) to the Bank and the benefit of all powers and remedies for enforcing same to hold the same unto the Bank subject only to the proviso for redemption therein contained.

Please sign the attached acknowledgement and return it to Allied Irish Banks, p.l.c. as set out below.

Dated

OR

Signed for and on behalf of

[Insert company name]

Signed by:

[Insert name of individual(s)]

¹ Applicable only if the Vessel is or is to be a fishing vessel.

Part VI

ACKNOWLEDGEMENT OF ASSIGNMENT²

To: Allied Irish Banks, p.l.c. (the **Chargee**)
Bank Centre, Ballsbridge, Dublin 4

Attention:

CC: Supreme Fishing Company Limited
Suite 207 Arthur House, 41 Arthur Street, Belfast, BT1 4GB, Northern Ireland

We acknowledge receipt of the notice of assignment and confirm as follows:

- (a) that the interest of the Bank in the Licences and Tonnage has been noted on the relevant licence, certificate, agreement and/or registry (if applicable);
- (b) that we have not received notice of and are not aware of any interest in the Tonnage other than that of the Owner and the Bank; and
- (c) that we shall advise the Bank of any alteration in or transfer of any relevant licence or certificate.

Dated

Signed for and on behalf of
THE LICENSING AUTHORITY FOR SEA-FISHING BOATS

² *Applicable only if the Vessel is or is to be a fishing vessel.*

SCHEDULE 4

SCHEDULE 5³

Part I

NOTICE OF ASSIGNMENT OF EARNINGS ACCOUNT

(On headed notepaper of The Chargor)

[Date]

To: [Insert Addressee details]

Attention: []

Re: Our Earnings Account(s) numbered [] (the Earnings Account(s))

Dear Sirs,

We hereby give you notice that by a Deed of Covenants (the Deed) dated [], (a copy of which is attached hereto) we have charged and assigned in favour of [] (the Assignee, which term includes its successors and assigns) all our rights, title and interest in the Earnings Account(s) together with all monies standing to the credit of the Earnings Account(s) from time to time.

Please note that the Assignee has been irrevocably appointed by ourselves as our true and lawful attorney to do (inter alia) all acts and things which we could do and to act in relation to the administration or enforcement or attempted enforcement of the Assignment and you are required to follow all instructions that the Assignee may give to you in accordance with the terms of the Assignment.

We hereby irrevocably authorise and instruct you:⁴

1. To disclose to the Assignee without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure, such information relating to the Earnings Account(s) and the sums therein as the Assignee may at any time and from time to time request;
2. To hold all sums from time to time standing to the credit of the Earnings Account(s) to the order of the Assignee;
3. To pay or release all or any part of the sums from time to time standing to the credit of the Earnings Account(s) in accordance with the written instructions of the Assignee at any time or times;
4. To comply with the terms of the written notice or instructions in any way relating to, or purporting to relate to the Deed, the sums standing to the credit of the Earnings Account(s) from time to time or the debts represented thereby which you receive at any time from the Assignee without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instructions.

Please note that we are not permitted to withdraw any amount from the Earnings Account(s) without the prior written consent of the Assignee.

³ Not applicable if the Account Bank is Allied Irish Banks, p.l.c.

⁴ Note – the Assignee is obliged to respond at all times to requests from the Chargee after this notice is served and not just upon the occurrence of an Enforcement Event.