**ANNEX F**

**FORM OF PREFERRED [FLEET/SHIP] MORTGAGE**

**Contract No. MA-\_\_\_\_\_\_**

**FIRST PREFERRED [FLEET/SHIP] MORTGAGE**

**THIS FIRST PREFERRED [FLEET/SHIP] MORTGAGE** (this “***Mortgage***”), dated the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_ (“***Closing Date***”), is made by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (the “***Mortgagor***”), a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“***Jurisdiction of Organization***”), having offices located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, to the United States of America (the "***United States***"), represented by the Maritime Administrator of the Maritime Administration (the “***Mortgagee***” or the “***Administrator***”), having offices located at the United States Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590. Capitalized terms used herein, unless otherwise defined herein, have the respective meanings set forth in Appendix 1 to this Mortgage.

**RECITALS**

1. The Mortgagor has authorized the execution and delivery of the Note Purchase Agreement and the issuance of the Note in the Maximum Principal Amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to finance, in part, the construction costs of the construction, reconstruction or reconditioning of Vessels (individually, a “***Vessel***”, and collectively, the "***Vessels***"):
2. \_\_\_\_\_\_\_\_\_ [Official/Hull] Number \_\_\_\_\_\_\_;
3. \_\_\_\_\_\_\_\_\_ [Official/Hull] Number \_\_\_\_\_\_\_;
4. \_\_\_\_\_\_\_\_\_ [Official/Hull] Number \_\_\_\_\_\_\_; and
5. \_\_\_\_\_\_\_\_\_ [Official/Hull] Number \_\_\_\_\_\_\_;
6. The Mortgagor is the sole owner of the whole of the Vessels which have been duly documented under the laws of the United States;
7. In connection with the Financing, the Mortgagee and the Mortgagor executed the Consolidated Agreement, Contract No. MA-\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_\_\_, between the Mortgagor and the Mortgagee (the “***Agreement***”), in which the United States, represented by the Mortgagee, committed to guarantee to the Holder the due payment of the unpaid interest on, and the unpaid balance of the principal of, the Note up to the Amount of Administrator’s Guarantee;
8. In connection with the Financing, the Mortgagor issued the Administrator’s Note payable to the Mortgagee in the amount equal to the Amount of the Administrator’s Guarantee; and
9. To secure the Guarantee and the payment of the Administrator’s Note and the other obligations of the Mortgagor under this Mortgage, the Agreement and the other Transaction Documents, the Mortgagor has executed and delivered this Mortgage to the Mortgagee.

**NOW, THEREFORE,** the parties hereby agree that this Mortgage consists of this Mortgage and the following appendices, all of which together constitute the entire agreement of the Mortgagee and Mortgagor with respect to the subject matter hereof, superseding all prior written and oral agreements and understandings between the parties with respect to such subject matter:

|  |
| --- |
| *Appendix 1:* Definitions*Appendix 2:* Information Specific to the Mortgage*Appendix 3:* Special Provisions |

In the event of any conflict or inconsistency between the provisions of Appendix 2: “Information Specific to the Mortgage” and Appendix 3: “Special Provisions” and this Mortgage, the provisions of Appendix 2 and Appendix 3, as the case may be, shall control.

**FURTHER,** **THIS MORTGAGE WITNESSETH THAT**, in consideration of the premises and of the additional covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and as security for the Guarantee and in order to secure the payment of the Administrator’s Note, each endorsement to the Administrator’s Note, and the other obligations of the Mortgagor under the Transaction Documents, including this Mortgage and the Agreement, and the due performance and observance of all the agreements and covenants in the Administrator’s Note and the Transaction Documents, including this Mortgage and the Agreement, the Mortgagor has granted, conveyed, mortgaged, pledged, confirmed, assigned, transferred and set over, and by these presents does grant, convey, mortgage, pledge, confirm, assign, transfer and set over unto the Mortgagee a hundred percent interest in the whole of the each of said Vessels which is more fully described in its certificates of documentation, together with all of their boilers, engines, motors, machinery, masts, spares, rigging, boats, anchors, cables, chains, tools, pumps and pumping equipment, apparel, furniture, skiffs, sails, fittings, navigation equipment, propulsion equipment, and all other equipment, electronics, computers, software, electronic records, records and papers whether on board or not, together with all accessions, substitutions, additions, replacements, improvements, parts and accessions, now existing or hereafter made of, in or to said Vessels or said appurtenances; whether or not any of the foregoing are vested in the name of the Mortgagor or appurtenant to the Vessels, regardless of whether or not any of the foregoing relate to or are necessary for the operation of the Vessels; provided that, the term "***Vessel***," whenever used, shall apply with equal force to each of the Vessels (collectively, the “***Collateral***”).

**TO HAVE AND TO HOLD,** all and singular, the above-mortgaged and described property unto the Mortgagee, to its use, benefit and advantage forever.

  **PROVIDED ALWAYS,** that if the Mortgagor shall pay, or cause to be paid, the principal of, interest on and other amounts due under the Note and the Administrator’s Note in accordance with the terms of the Note Purchase Documents and the Transaction Documents, including this Mortgage and the Agreement, and shall pay any and all other sums that may hereinafter become secured by this Mortgage in accordance with the terms hereof, and shall keep, perform and observe all of the covenants and promises contained in the Note, the Administrator’s Note, the Note Purchase Documents and the Transaction Documents, including this Mortgage and the Agreement, or expressed, or implied therein and herein to be kept, performed, and observed by or on the part of the Mortgagor, then this Mortgage and the estate and rights hereby granted shall cease and be void; otherwise to remain in full force and effect.

The Mortgagor hereby covenants and agrees with the Mortgagee that the Vessels now or at any time subject to the lien of this Mortgage are to be held by the Mortgagor subject to the further agreements and conditions hereinafter set forth.

***ARTICLE I***

***Principal Amount Secured***

The total principal amount of the obligations that is secured by this Mortgage is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and 00/100's ($ ) excluding interest, expenses and fees.

***ARTICLE II***

***Representations and Warranties of Mortgagor***

The Mortgagor represents and warrants to the Mortgagee that, except as set forth on Appendix 3 to this Mortgage, the following statements are true and correct as of the Closing Date and further represents and warrants that such statements shall remain true and correct thereafter for so long as this Mortgage shall have not been discharged.

**SECTION 2.01. Organization and Existence; Power and Authority.** The Mortgagor is duly organized, validly existing and in good standing under the laws of its Jurisdiction of Organization, has full legal right, power and authority to enter into this Mortgage and each of the other Transaction Documents to which it is a party, to issue the Note and the Administrator’s Note, and to carry out and consummate all transactions contemplated by this Mortgage and each of the other Transaction Documents to which it is a party and has duly authorized the execution, delivery and performance of this Mortgage and each of the other Transaction Documents to which it is a party.

**SECTION 2.02. Qualification.** The Mortgagor has not failed to qualify to do business in any jurisdiction in the United States in which its business or properties require such qualification, and the Mortgagor had and has full legal right, power and authority to own its own properties and assets and conduct its business as it is presently conducted.

**SECTION 2.03. Proper Execution.** As of the Closing Date, the officers of the Mortgagor executing this Mortgage and each of the other Transaction Documents to which it is a party are duly and properly in office and fully authorized to execute the same on behalf of the Mortgagor.

**SECTION 2.04. Due Execution and Delivery.** This Mortgage and each of the other Transaction Documents to which the Mortgagor is a party have been duly authorized, executed and delivered by the Mortgagor are in full force and effect and constitute the legal, valid and binding agreements of the Mortgagor enforceable in accordance with their terms.

**SECTION 2.05.** **No Conflicts or Contravention**. The execution and delivery of this Mortgage and each of the other Transaction Documents, the consummation of the transactions herein and therein described and the fulfillment of or compliance with the terms and conditions hereof and thereof, will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) by the Mortgagor of any of its Organizational Documents, any applicable law or administrative rule or regulation, or applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, loan agreement, lease, contract or other agreement or instrument to which the Mortgagor is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited Lien of any nature whatsoever upon any of the property or assets of the Mortgagor.

**SECTION 2.06. Governmental Authorizations; Other Consents or Approvals.** No consent or approval of any trustee, holder of any indebtedness of the Mortgagor or any other Person, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental entity is necessary in connection with the execution and delivery of this Mortgage and each of the Transaction Documents, the consummation of any transaction herein or therein described, or the fulfillment of or compliance with the terms and conditions hereof or thereof, except as have been obtained or made and as are in full force and effect.

**SECTION 2.07. No Litigation.** There is no action, suit, proceeding, inquiry or investigation, before or by any court or Federal, state, municipal or other governmental authority, pending, or to the knowledge of the Mortgagor after reasonable inquiry and investigation, threatened against or affecting the Mortgagor or the assets, properties or operations of the Mortgagor which are likely to be determined to have, or could be reasonably expected to have, a Material Adverse Effect. The Mortgagor is not in default (and no event has occurred and is continuing which with the giving of notice or the passage of time or both could constitute a default) with respect to any order or decree of any court or any order, regulation or demand of any Federal, state, municipal or other governmental authority, which default could reasonably be expected to have a Material Adverse Effect.

**SECTION 2.08 Ownership of Collateral; Liens.** The Mortgagor lawfully owns each Vessel, free from any Lien except for Permitted Liens.

**SECTION 2.09. Mortgagor’s United States Citizenship.** The Mortgagor is a citizen of the United States within the meaning of Section 50501 of Title 46 of the United States Code and shall remain such a citizen for operation in the trades in which the Mortgagor proposes to operate the Vessels.

**SECTION 2.10. Taxes.** The Mortgagor has filed all Federal, state and other material tax returns and reports required to be filed, and has paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon it or its properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Mortgagor that would, if made, have a Material Adverse Effect.

***ARTICLE III***

***Affirmative Covenants***

So long as the Mortgagee shall have any obligations under the Agreement or the Guarantee, or any obligations remain outstanding, unpaid or unsatisfied under this Mortgage, the Agreement, the Administrator’s Note or any other Transaction Document, the Mortgagor covenants and agrees as follows:

**SECTION 3.01.** **No Liens on Vessels.** (a) Neither the Mortgagor, any charterer, the master of any Vessel, nor any other person has or shall have any right, power, or authority, without the Administrator’s prior consent, to create, incur, or permit to be placed or imposed, upon any of the Vessels any lien whatsoever other than the lien of this Mortgage or Permitted Liens.

1. If the Mortgagor desires to contest an asserted lien, the Mortgagor may do so if the Mortgagor acts in good faith and by appropriate proceedings and has set aside adequate reserves determined in accordance with GAAP.

**SECTION 3.02.** **Notice of Mortgage.** (a) The Mortgagor shall cause a properly certified copy of this Mortgage to be carried onboard each self-propelled Vessel with that Vessel's documents and which shall be exhibited on demand to any Person having business with such Vessel or to any Mortgagee’s representative.

(b) The Mortgagor shall cause a notice printed in plain type of such size that the paragraph of reading matter covers a space not less than six inches wide by nine inches high, and framed, to be placed and kept prominently exhibited in the chart room and in the master's cabin of a self-propelled Vessel.

(c) The Mortgagor shall cause the notice referred to in Subsection (b) of this Section to read as follows:

"NOTICE OF FIRST PREFERRED [FLEET/SHIP] MORTGAGE

This Vessel is owned by [Insert name of Mortgagor], a [Insert jurisdiction of Organization] [Insert ORGANIZATIONAL FORM] ("***Mortgagor***"), and is covered by a First Preferred [Fleet/Ship] Mortgage in favor of the United States of America, under authority of Chapter 313, Title 46 of the United States Code. Under the terms of said Mortgage neither the Mortgagor, any charterer, the master or agent of this Vessel nor any other person has any right, power or authority to create, incur or permit to be placed or imposed upon this Vessel any lien other than statutory liens incident to current operations that are subordinate to the Mortgage."

**SECTION 3.03. Mandatory Loss Prepayment.** Upon the occurrence of any Loss Event, then all of the following shall apply:

(a) The Mortgagor shall promptly give notice thereof to the Mortgagee.

(b) The Mortgagor shall pay all amounts it receives by reason of such Loss Event to the Mortgagee within three (3) Business Days after receipt by the Mortgagor.

(c) Within three (3) Business Days after receipt by the Mortgagee of the amounts referred to in Subsection (b) above, the Mortgagor shall calculate the estimated Mandatory Loss Prepayment Amount which shall be reviewed and verified by the Mortgagee, and within three (3) Business Days of such verification by the Mortgagee, the Mortgagor shall deposit with the Mortgagee an amount equal to (1) the verified Mandatory Loss Prepayment Amount minus (2) the amount received by the Mortgagee pursuant to Subsection (b) above.

(d) After the Mortgagee has received sufficient funds to pay the Mandatory Loss Prepayment Amount pursuant to Subsections (b) and (c) above:

(1) if there is no existing Default, (A) within five (5) Business Days after receipt by the Mortgagee of the funds referred to in Subsections (b) and (c) above, the Mortgagor shall make a Mandatory Prepayment Election of the prepayment of Advances in an amount equal to the Mandatory Loss Prepayment Amount (which may not be rescinded) and shall send a Mandatory Prepayment Election Notice to the Holder with a copy to the Mortgagee, which shall specify an Intended Payment Date of not less than five (5) Business Days or more than ten (10) Business Days after the receipt of such notice by the Holder, (B) one (1) Business Day prior to the Intended Payment Date, the Mortgagor shall pay to the Mortgagee for payment to the Holder any additional amounts due to the Holder pursuant to the Note Purchase Documents as a result of such Mandatory Prepayment Election, (C) on the Intended Payment Date, the Mortgagee shall pay to the Holder the amounts held by it pursuant to Subsections (b) and (c) and clause (B) above in accordance with terms of the Mandatory Prepayment Election Notice, and (D) the balance, if any, shall be promptly paid by the Mortgagee to the Mortgagor including any interest earned on the proceeds which are in excess of the amount required to prepay such Advances;

(2) if there is an existing Default and the Guarantee shall not have terminated pursuant to Section 2.04 of Annex C of the Agreement, such amounts shall be held until the same may be applied or paid under Paragraph (1) of this Subsection; provided that, in lieu of Clause (D) of Paragraph (1) of this Subsection, the balance, if any, including any interest earned on the proceeds which are in excess of the amount required to prepay the Mandatory Loss Prepayment Amount and any additional amounts due to the Holder pursuant to the Note Purchase Documents as a result of such Mandatory Prepayment Election, shall be held in the Chapter 537 Reserve Fund by the Mortgagee;

(3) if the Guarantee shall have terminated pursuant to Section 2.04(c) of Annex C of the Agreement or if the Mortgagee shall have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537, such amounts shall be applied as provided in Section 5.04 hereof; or

(4) if the Guarantee shall have terminated pursuant to Section 2.04(a), (b) or (d) of Annex C of the Agreement, such amounts shall be paid by the Mortgagee to the Mortgagor.

Provided that, notwithstanding the foregoing, the Mortgagor shall not be required to pay the Mortgagee any amount which the Mortgagee agrees is in excess of the amount needed for prepayment of the Proportionate Part of the Outstanding Advances affected by the Loss Event plus any additional amounts due to the Holder pursuant to the Note Purchase Documents as a result of such Mandatory Prepayment Election.

**SECTION 3.04 Vessel Covenants.**

**(a) Warranty of Title.** The Mortgagor shall, for the Mortgagee's benefit, warrant and defend the title to, and possession of, each Vessel and every part thereof against the claims and demands of all Persons whomsoever.

**(b) Taxes and Governmental Charges.** The Mortgagor shall pay and discharge, or cause to be paid and discharged, on or before the same shall become delinquent, all taxes, assessments, government charges, fines and penalties lawfully imposed upon each Vessel, unless the same are being diligently contested in good faith.

**(c) Vessel No Liens Certificate.** (1) At the later to occur of the Closing Date or the Delivery Date of each Vessel, the Mortgagor and the Shipyard shall provide an Officer’s Certificate stating that there are no liens or rights in rem against the respective Vessel except for the Mortgage; and (2) after the Delivery Date of each Vessel, the Mortgagor shall satisfy, or cause to be satisfied, within thirty(30) days of its knowledge thereof, any Lien which shall be filed against such Vessel unless the same is being diligently contested in good faith.

 **(d) Compliance with Applicable Laws**. The Mortgagor shall at all times be in compliance with all laws of the United States and other jurisdictions, if applicable, and shall cause each Vessel (1) to be designed to meet, and on the Delivery Date thereof and at all times thereafter shall meet, all requirements of applicable laws, treaties and conventions, and of applicable rules and regulations thereunder, and (2) to have on board valid certificates showing compliance therewith; provided that the foregoing shall not apply if (A) the Vessel is in Government Use; (B) there has been an actual or constructive total loss or an agreed or compromised total loss of such Vessel; or (C) there has been any other loss with respect to such Vessel and the Mortgagor shall not have had a reasonable time to repair the same.

**(e) Vessels Condition and Maintenance**. The Mortgagor shall cause each Vessel to be constructed, maintained and operated so as to meet, at all times, the highest classification, certification, rating and inspection standards for Vessels of the same age and type as may be imposed by the Classification Society; provided that, the foregoing shall not apply if (1) the Vessel is or has been under Government Use, (2) there has been an actual or constructive total loss or an agreed or compromised total loss of such Vessel, or (3) there has been any other loss with respect to such Vessel and the Mortgagor shall not have had a reasonable time to repair the same. In addition to the foregoing, the Mortgagor will keep the Vessels in as good condition as will enable it to pass such inspection as may be required by marine underwriters as a condition of their writing such insurance in such amounts as are required under the Agreement or this Mortgage or as required by the United States Coast Guard as a condition to certifying that the Vessels are seaworthy and in compliance with all applicable safety, navigational, and pollution control requirements. The Mortgagor shall furnish the Mortgagee full information regarding any casualties or other accidents or damage to the Vessels.

**(f) Classification of the Vessels.** At the later to occur of the Closing Date or the Delivery Date, the Mortgagor shall furnish to the Mortgagee an interim class certificate issued for each such Vessel by the Classification Society and promptly after receipt by Mortgagor, furnish to the Mortgagee a certificate of class with respect to each such Vessel issued by the Classification Society.

**(g) Annual In-Class Vessel Confirmation Survey and Inspections.** Within one hundred five (105) days after the end of each fiscal year of the Mortgagor and at any other time reasonably requested by the Mortgagee, the Mortgagor shall (1) furnish to the Mortgagee a certificate of confirmation of class issued by the Classification Society showing that the classification and rating for each Vessel on the Delivery Date of each Vessel has been retained for each in class Vessel and (2) furnish to the Mortgagee copies of all Classification Society reports, including periodic and damage surveys for each Vessel; provided that, the foregoing shall not apply if the Vessel is in Government Use and the governmental body does not permit classification and rating of the Vessel. Notwithstanding the foregoing, if the Vessel is a barge which is not classed, then the Mortgagor shall, at all times, at its own cost and expense maintain and preserve each Vessel, so far as may be practicable, in at least as good order and condition, ordinary wear and tear excepted, as at the Delivery Date of such Vessel. Upon the Delivery Date and thereafter, the Mortgagor shall cause each Vessel to be and to remain documented under the laws of the United States of America.

**(h)** **Biennial Not Classed Vessel Survey and Inspections**. Within one hundred five (105) days after the end of every two fiscal years of the Mortgagor commencing the second full fiscal year after the date of this Mortgage and at any other time reasonably requested by the Mortgagee, the Mortgagor shall obtain a survey and inspection of each not classed Vessel by an independent marine surveyor approved by the Mortgagee; and provided that, no such surveys will be requested within the last three (3) years prior to the Stated Maturity Date of the Note. The Mortgagor shall furnish two copies of such report of such independent marine surveyor to the Mortgagee within one hundred twenty-five (125) days after the end of every two fiscal years of the Mortgagor.

**(i) Biennial Appraisals of Vessels.** Within 105 days after the end of every two fiscal years of the Mortgagor commencing the second full fiscal year after the date of this Mortgage and at any time reasonably requested by the Mortgagee, the Mortgagor shall obtain, at its own expense, an appraisal of the fair market value, replacement value, orderly liquidation value and forced liquidation value of the Vessels from an appraiser approved by the Mortgagee and shall furnish two copies of such report and appraisal to the Mortgagee within 125 days after the end of every two fiscal years of the Mortgagor. This requirement may be met by the Mortgagor by providing copies of the latest annual class surveys and desktop appraisals of the Vessels to the Mortgagee to the extent available.

**(j) Material Changes in the Vessels.** The Mortgagor shall not, after the Delivery Date of any undelivered Vessel or the Closing Date of any already delivered Vessel, make, or permit to be made, any material change in the structure, means of propulsion, type or speed of such Vessel or in its rig, without the Mortgagee's prior consent.

**SECTION 3.05. Payment of Moorage, Fuel, Seamen’s Wages and Other Items Giving Rise to Maritime Liens.** The Mortgagor shall pay or cause to be paid all charges for goods and services rendered to the Vessels, including, without limitation, all moorage, fuel and other consumables, maintenance, repairs, and insurance premiums; towage; seamen’s wages; salvage; liability to repair dock and collision damage; liability to compensate for personal injury and boating accidents; and maintenance, cure and unearned wages owed to former crewmen as and when the same shall be come due.

**SECTION 3.06. Further Documentation.** The Mortgagor shall promptly, at any time and from time to time, upon the Request of the Mortgagee, and at the sole expense of the Mortgagor, duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Mortgagee may reasonably deem necessary for the purpose of obtaining or preserving the full benefits of this Mortgage and of the rights and powers herein granted.

**SECTION 3.07.** **Compliance with 46 U.S.C. Chapter 313**. The Mortgagor will comply with and satisfy all the provisions of Chapter 313 to establish and maintain this Mortgage as a First Preferred [Ship/Fleet] Mortgage upon the Vessels.

**SECTION 3.08.** **United States Documentation of Vessels.** At the Delivery Date and thereafter, each of the Vessels is and shall remain documented under the laws of the United States.

**SECTION 3.09. Surveys and Inspection of the Vessels; Examination of Mortgagor's Records.** The Mortgagor shall: (a) afford the Mortgagee, upon reasonable notice, access to the Vessels, their cargoes, logs and papers for the purpose of inspecting the same; (b) maintain all business and financial records for a period of at least six years following the termination of the Guarantee, including, without limitation, records of all amounts paid or obligated to be paid by or for the account of the Mortgagor for each Vessel’s Construction; and (c) at reasonable times permit the Mortgagee, upon request, to (1) make reasonable, material and pertinent inspection, examination and audit of any books, records, and papers in the custody and control of the Mortgagor or others relating to the Mortgagor’s financial or business conditions, including taking information therefrom and making of copies thereof and transcripts or extracts therefrom and (2) make inspections and appraisals of any of the Mortgagor’s Vessels.

**SECTION 3.10.** **Insurance.** (a) **Insurance Amounts.** Upon the Delivery Date of each Vessel and at all times thereafter, the Mortgagor shall, without cost to the Mortgagee, keep such Vessel insured as indicated below and with such additional insurance as may be specified by the Mortgagee in an amount in U.S. dollars equal to one hundred ten percent (110%) of the unpaid principal amount of the Proportionate Part of the Administrator’s Note, or such greater sum, up to and including the full commercial value of such Vessel as may be required by the Mortgagee. The Mortgagor shall provide to the Mortgagee: (1) at least sixty (60) days prior notice of all insurance renewals; and (2) premium payment confirmation shall be sent in writing to the Mortgagee by the Mortgagor’s marine insurance broker or the head underwriter within five (5) Business Days.

(1) **Hull & Machinery and War Risk Insurance.** Marine and war risk hull insurance under the latest (at the time of issue of the policies in question) forms of American Institute of Marine Underwriters' policies approved by the Mortgagee and/or policies issued by or for the Maritime Administration (or under such other forms of policies as the Mortgagee may approve in writing) insuring such Vessel against the usual risks covered by such forms (including, at the Mortgagor’s option, such amounts of increased value and other forms of "total loss only" insurance as are permitted by said hull insurance policies); and

(2) **Port Risk Insurance.** While any Vessel is laid up, at the Mortgagor’s option and in lieu of the above-mentioned marine and war risk hull insurance or marine and war risk hull and increased value insurance, port risk insurance with war risk endorsement under the latest (at the time of issue of the policies in question) forms of American Institute of Marine Underwriters' policies approved by the Mortgagee and/or policies issued by or for the Maritime Administration (or under such other forms of policies as the Mortgagee may approve in writing) insuring such Vessel against the usual risks covered by such forms.

(3) **Mortgagee’s Interest Insurance.** Mortgagee’s Interest Insurance in relation to each Vessel, providing for the indemnification of the Mortgagee and the United States for any losses under or in connection with this Mortgage which directly or indirectly result from loss of or damage to any Vessel or a liability of any Vessel or of the Mortgagor, where the loss or damage is required to be covered by an obligatory insurance policy but of which there is a non-payment (or reduced payment) by the underwriters because of:

(A) any act or omission on the part of the Mortgagor, of any operator, charterer, manager or sub-manager of the Vessel owned by it or of any officer, employee or agent of a Mortgagor, or of any such person, including any breach of warranty or condition or any non-disclosure relating to such obligatory insurance;

(B) any act or omission, whether deliberate, negligent or accidental, or any knowledge or privity of a Mortgagor, any other person referred to in Subsection (i) above, or of any officer, employee or agent of that Mortgagor, or of such a person, including either the casting away or damaging of the Vessel or the Vessel being unseaworthy; or

(C) any other matter capable of being insured against under a mortgagee’s interest marine insurance policy whether or not similar to the foregoing.

The underwriters for Mortgagee’s Interest Insurance shall be the same underwriter as the Hull & Machinery and War Risk underwriters, unless otherwise approved in writing by the Mortgagee.

 (4) **Self Insurance.** Notwithstanding the foregoing, the Mortgagor, with the Mortgagee’s prior consent, shall have the right to self-insure up to the Maximum Self-Insurance Amount for any loss resulting from any one accident or occurrence (other than an actual or constructive total loss of any Vessel).

(b) **Loss Payee.** All policies of insurance under this Section shall provide, so long as this Mortgage is in effect and the Collateral has not been discharged, that payment of all losses shall be made payable to the Mortgagee for distribution by him to himself, the Mortgagor, except that (1) as provided in Subsection (d) of this Section and (2) under the policies required by Subsection (a) of this Section, payment of all losses up to the Maximum Payment Amount of Losses Directly to Mortgagor by all insurance underwriters with respect to any one accident, occurrence or event may be made directly to the Mortgagor unless there is an existing Default, or if the Mortgagee shall have assumed the Mortgagor’s rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537, in which event payment of all losses shall be made payable to the Mortgagee as aforesaid.

In the event that insurance becomes payable under said policies on account of an accident, occurrence or event not resulting in an actual or constructive total loss or an agreed or compromised total loss of any Vessel, the Mortgagee (1) shall if there is no existing Default and if none of the events described in Section 3.03 of this Mortgage has occurred, in accordance with a Mortgagor’s Request, pay, or consent that the underwriters pay, direct for repairs, liabilities, salvage claims or other charges and expenses (including use and labor charges due or paid by the Mortgagor) covered by the policies, or (to the extent that, as stated in an Officer's Certificate delivered to the Mortgagee, accompanied by written confirmation by the underwriter or a surveyor or adjuster, the damage shall have been repaired and the cost thereof paid of such liabilities, salvage claims, or other charges and expenses discharged or paid) reimburse, or consent that the underwriters reimburse, the Mortgagor therefor and (after all known damage with respect to the particular loss shall have been repaired, except to the extent the Mortgagor, with the Mortgagee’s consent, deems the said repair inadvisable, and all known costs, liabilities, salvage claims, charges and expenses covered by the policies, with respect to such loss shall have been discharged or paid, as stated in an Officer's Certificate delivered to the Mortgagee, accompanied by written confirmation by the underwriters or a surveyor or adjuster) pay, or consent that the underwriters pay, any balance to the Mortgagor; or (2) if there is an existing default, shall direct the underwriters to pay to the Mortgagee all insurance proceeds due and owing, and the Mortgagee shall apply such proceeds to the Mortgagor’s defaulted debt, or, in the Mortgagee’s sole discretion, to repairs to the Vessel; or (3) if the Guarantee shall have terminated pursuant to Section 2.04(c) of Annex C of the Agreement or if the Mortgagee shall have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537 and none of the events described Section 3.03 of this Mortgage has occurred, apply the insurance as provided in Section 5.04 hereof; or (4) if the Guarantee shall have terminated pursuant to Section 2.04(b) of Annex C of the Agreement, pay the insurance to the Mortgagor.

(c) **Claim for Constructive Total Loss.** In the event of an accident, occurrence or event resulting in a constructive total loss of any Vessel, the Mortgagee shall have the right, with the prior consent of the Mortgagee, unless there is an existing Default, to claim for a constructive total loss of such Vessel. If (1) such claim is accepted by all underwriters under all policies then in force as to such Vessel under which payment is due for total loss and (2) payment in full is made in cash under such policies to the Mortgagee, then the Mortgagee shall have the right to abandon such Vessel to the underwriters of such policies, free from the Lien of this Mortgage and the Agreement.

(d) **Protection and Indemnity Insurance.** Commencing on the Delivery Date of each Vessel, the Mortgagor shall, without cost to the Mortgagee, keep each such Vessel insured against marine and war risk protection and indemnity risks and liabilities by policies of insurance approved by the Mortgagee as to form and in the amount of the Insurance Requirements; provided that, (1) the Mortgagor shall, as soon as possible before such Delivery Date, present any such policy to the Mortgagee (who shall promptly approve or disapprove the same), (2) any approval of a policy under this Subsection shall be effective until the end of the policy period or until sixty (60) days after the Mortgagee shall notify the Mortgagor of a desired change in the form and/or amount thereof, whichever shall first occur, and (3) war risk protection and indemnity insurance shall be required unless the Mortgagee gives notice to the Mortgagor stating that such insurance is not required.

Such policies may provide that (1) if the Mortgagor shall not have incurred the loss, damage, or expense in question, any loss under such insurance may be paid directly to the Person to whom any liability covered by such policies has been incurred (whether or not a Default then exists), and (2) if the Mortgagor shall have incurred the loss, damage or expense in question, any such loss shall be paid to the Mortgagor in reimbursement if there is no existing Default of which the underwriter has written notice from the Mortgagor or the Mortgagee, or, if there is such an existing Default, to the Mortgagee to be held and applied as follows: (A) applied as provided in Section 5.04 hereof in the event the Guarantee shall have terminated pursuant to Section 2.04(c) of Annex C of the Agreement or if the Mortgagee shall have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537, or (B) to the extent not theretofore applied pursuant to Section 5.04 hereof, paid forthwith to the Mortgagor upon its Request in the event there is no existing Default or the Guarantee shall have terminated pursuant to Section 2.04(b) or (d) of Annex C of the Agreement at the date of delivery of such Request; provided that, irrespective of the foregoing, with the Mortgagee’s prior consent, the Mortgagor shall have the right to self-insure in an amount up to the Maximum Self-Insurance Amount hereof with respect to each accident, occurrence or event, except that, with respect to cargo or property carried, the Mortgagor, with the Mortgagee’s prior consent, shall have the right to self-insure in an amount up to the Maximum Self-Insurance Amount with respect to each cargo or property carried.

(e) **Insurance Underwriters.** All insurance required under this Section shall be placed and kept with the Government or with United States domiciled and state-regulated or United States domiciled mutual assurance association to the maximum extent possible subject to market capacity, (and/or other foreign, if permitted by the Mortgagee in writing) insurance companies, underwriters' association or underwriting funds approved by the Mortgagee. All insurance required under this Subsection shall be arranged through United States licensed marine insurance brokers and/or underwriting agents domiciled in the United States (and/or other foreign, if permitted by the Mortgagee in writing) as chosen by the Mortgagor and approved by the Mortgagee.

(f) **Providing Compromised Total Loss.** The Mortgagee shall not have the right to enter into an agreement or compromise providing for an agreed or compromised total loss of any Vessel without prior consent of (1) the Shipyard (prior to the Delivery Date of such Vessel) and (2) (unless there is an existing Default) the Mortgagor. If (1) the Mortgagor shall have given prior consent thereto or (2) there is an existing Default, the Mortgagee shall have the right in his discretion, and with the prior consent of the Shipyard prior to the Delivery Date of such Vessel, to enter into an agreement or compromise providing for an agreed or compromised total loss of such Vessel; provided that, if the aggregate amount payable to the Mortgagor and/or the Mortgagee under such agreement or compromise, together with funds held by the Mortgagee and available for the prepayment of the Note, is not sufficient to pay the Proportionate Part of the Outstanding Advances pursuant Section 3.03 hereof, the Mortgagee shall not enter into such agreement or compromise without the Mortgagor’s prior consent.

(g) **Vessel Requisition.** During the continuance of (1) a taking or requisition of the use of any Vessel by any government or governmental body, or (2) a charter, with the Mortgagee’s prior consent, of the use of any Vessel by the Government, the provisions of this Section shall be deemed to have been complied with in all respects if such government or governmental body shall have agreed to reimburse, in a manner approved by the Mortgagee in writing, the Mortgagor for loss or damage covered by the insurance required hereunder or resulting from the risks under Subsections (a) and (d) of this Section or if the Mortgagor shall be entitled to just compensation therefor. In addition, the provisions of this Section shall be deemed to have been complied with in all respects during any period after (A) title to any Vessel shall have been taken or requisitioned by any government or governmental body or (B) there shall have been an actual or constructive total loss or an agreed or compromised total loss of any Vessel. In the event of any taking, requisition, charter or loss contemplated by this Subsection, the Mortgagor shall promptly furnish to the Mortgagee an Officer's Certificate stating that such taking, requisition, charter or loss has occurred and, if there shall have been a taking, requisition or charter of the use of any Vessel, that the government or governmental body in question has agreed to reimburse the Mortgagor, in a manner approved by the Mortgagee, for loss or damage resulting from the risks under Subsections (a) and (d) of this Section or that the Mortgagor is entitled to just compensation therefor.

(h) **Required Assured and No Recourse.** All insurance required under Subsections (a) and (b) of this Section shall be taken out in the names of the Mortgagor and the Mortgagee as co-assureds. All policies for such insurance so taken out shall, unless otherwise consented to by the Mortgagee, provided that (1) there shall be no recourse against the Mortgagee for the payment of premiums or commissions, (2) if such policies provide for the payment of club calls, assessments or advances, there shall be no recourse against the Mortgagee for the payment thereof, and (3) at least thirty (30) days' prior written notice of any cancellation for the nonpayment of premiums, commissions, club calls, assessments or advances shall be given to the Mortgagee by the lead insurance underwriters.

(i) **Surety Agreement.** In the event that any claim or Lien is asserted against any Vessel for loss, damage or expense which is covered by insurance hereunder and it is necessary for the Mortgagor to obtain a bond or supply other security to prevent arrest of such Vessel or to release such Vessel from arrest on account of said claim or Lien, the Mortgagee, on the Mortgagor’s Request, may, at the Mortgagee’s sole option, assign to any Person executing a surety or guaranty bond or other agreement to save or release such Vessel from such arrest, all right, title and interest of the Mortgagee in and to said insurance covering such loss, damage or expense as collateral security to indemnify against liability under said bond or other agreement.

(j) **Original Insurance Policy.** Except as the Mortgagee shall otherwise direct by notice in writing to the Mortgagor, the Mortgagor shall deliver to the Mortgagee the original policies evidencing insurance maintained under this Section; provided that, if any such original policy shall have been delivered previously to the Mortgagee or to a mortgagee by the Mortgagor under another ship mortgage of the Mortgagor, the Mortgagor shall deliver a duplicate or pro forma copy of such policy to the Mortgagee. The Mortgagee or any agent thereof (who may also be an agent of the issuer) shall at all times hold the policies delivered as aforesaid; provided that, if one or more of said policies are held by an agent of the Mortgagee, the Mortgagor shall, upon the Mortgagee’s Request, deliver a duplicate or pro forma copy thereof to the Mortgagee, and provided further, that if the Mortgagor shall deliver to the Mortgagee a Request (1) stating that delivery of such policy to the insurer is necessary in connection with the collection, enforcement or settlement of any claim thereunder (including claims for return premiums and any other amounts payable by the insurer) and (2) setting forth the name and address of the Person to whom such policy is to be delivered or mailed for such purpose, and if the Mortgagee approves such Request, the Mortgagee shall, at the Mortgagor’s expense, deliver or mail (by registered or certified mail, postage prepaid) such policy in accordance with such Request, accompanied by a written direction to the recipient to redeliver such policy directly to the Mortgagee or an agent thereof when it has served the purpose for which so delivered. The Mortgagor agrees that, in case it shall at any time so cause the delivery or mailing of any policy to any Person as aforesaid, the Mortgagor will cause such policy to be promptly redelivered to the Mortgagee or an agent thereof as aforesaid. The Mortgagee shall have no duty to see to the redelivery of such policy, but shall have the duty to request the redelivery thereof at intervals of sixty (60) days thereafter.

(k) **Trade Restrictions.** Unless, requested by the Mortgagor in writing and approved by the Mortgagee in writing, the Vessel shall not call, operate, or transit territorial waters of any country who is not a party to (1) a bilateral investment treaty with the U.S., (2) a multilateral or regional trade treaty which the United States also is a party to, or (3) the United Nations Convention on Transparency in Treaty-Based Investor-State Arbitration (Convention), done at New York on December 10, 1958, as amended or modified.

(l) **Office of Foreign Asset Control (OFAC).** The Mortgagor shall not be a member of any P&I Clubs which contribute or obligate to third party liabilities to countries or organizations, or individuals that the Office of Foreign Asset Control designates as prohibited for United States domiciled organizations.

(m) **No Limits to Additional Insurance as Required.** Nothing in this Section shall limit the insurance coverage which the Mortgagee may require under any contract or agreement to which the Mortgagee and the Mortgagor are parties.

**SECTION 3.11.** **Return to Exclusive Economic Zone of United States.** Upon demand by the Mortgagee to the master of any Vessel or the Mortgagor, the Mortgagor will return the Vessel to the waters known as the exclusive economic zone of the United States and, if the Mortgagee so demands, to a port of call chosen by the Mortgagee, thereby revoking any prior written consent extended by the Mortgagee, if any, with respect to operation of the Vessel outside the exclusive economic zone of the United States.

**SECTION 3.12.** **Payment of Administrator’s Note and Other Sums.** The Mortgagor will duly and punctually pay the principal of and interest on the Administrator’s Note and any other sums owed to the Mortgagee in connection with this Mortgage, the Agreement, the Note and the Administrator’s Note, as herein or therein provided, and will at all times keep, perform, and observe all of the covenants, conditions, stipulations, promises, and agreements in this Mortgage and in the Agreement and the Administrator’s Note (as either may, from time to time, be amended, substituted, restated or modified) expressed or implied on its part to be kept, performed, and observed, and will duly punctually pay all sums that may hereinafter become due hereunder or thereunder.

**SECTION 3.13.** **Discharge of Complaints.** If a complaint shall be filed against any Vessel, or if any Vessel shall be levied upon or taken into custody, or detained by any proceeding in any court or tribunal, the Mortgagor will within fifteen (15) days thereafter cause the Vessel to be discharged. In the event a complaint is filed against said Vessel, or in the event said Vessel is levied upon or taken into custody or detained by any authority whatsoever, the Mortgagor shall immediately notify the Mortgagee by electronic transmission (email) and confirmed by a letter sent by registered or certified mail, postage prepaid.

**SECTION 3.14.** **Reimbursement of Expenditures.** The Mortgagor will reimburse the Mortgagee for any and all expenditures which the Mortgagee may elect to make from time to time to protect the security granted hereunder (in the event of the Mortgagor’s failure to do so), including, without limitation of the foregoing, payment of taxes, repairs, insurance premiums, surveys, the discharge of any Lien, payment of costs associated with a complaint filed against the Vessel or seizure of the Vessel, expenses incurred by the Mortgagee in retaking the Vessel and any other expenditures reasonably deemed necessary by the Mortgagee to protect and preserve the Vessel. Any such payment or payments made by the Mortgagee shall be for the account of the Mortgagor and the making thereof by the Mortgagee shall not cure the Mortgagor’s default in that regard nor constitute a waiver of any right or remedy granted to the Mortgagee hereunder, and all sums so expended by the Mortgagee or any liability incurred by it shall be immediately due and payable and shall be deemed to be an indebtedness of the Mortgagor and secured by this Mortgage, and until paid, shall bear interest at the Expended Funds Rate plus two percent (2%).

**SECTION 3.15.** **Other Covenants.** The Mortgagor will faithfully comply with, observe, perform or discharge any and all covenants, conditions or obligations which are imposed on the Mortgagor by any other agreement or document executed in connection with this Mortgage, the Administrator’s Note or the other Transaction Documents, concurrently or otherwise.

**SECTION 3.16.** **Further Assurances.** In the event that this Mortgage, the Agreement, the Administrator’s Note and the other Transaction Documents, or any provisions hereof or thereof, including amendments or substitutions with respect to either, shall be deemed invalid in whole or in part by reason of any present or future law of the United States or any decision of any authoritative court, or if the documents at any time held by the Mortgagee be deemed by the Mortgagee for any reason insufficient to carry out the true intent and spirit of this Mortgage, the Agreement, the Administrator’s Note and the other Transaction Documents, then, from time to time the Mortgagor will execute on its own behalf such other and further assurances and documents as in the opinion of counsel for the Mortgagee may be required to carry out the terms, conditions and intent of this Mortgage, the Agreement, the Administrator’s Note and the other Transaction Documents and any other agreement or document executed by the Mortgagor in connection therewith. Upon failure of the Mortgagor to do so, the Mortgagee may execute any and all such other and further assurances and documents, for and in the name of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee the agent attorney-in-fact of the Mortgagor to do so. Any expenses of the Mortgagee in connection with the foregoing shall be a debt due from the Mortgagor to the Mortgagee in payment thereof and shall be secured by the lien of this Mortgage.

***ARTICLE IV***

***Negative Covenants***

So long as the Mortgagee shall have any obligations under the Agreement or the Guarantee, or any obligations remain outstanding, unpaid or unsatisfied under this Mortgage, the Agreement, the Administrator’s Note or any other Transaction Document, the Mortgagor covenants and agrees as follows:

**SECTION 4.01.** **Merger, Consolidation, Sale, Mortgage, Transfers, Demise Charters Etc.** Except with the prior written consent of the Mortgagee and subject to terms acceptable to Mortgagee, the Mortgagor shall not enter into any succession, merger or consolidation or convey, sell, mortgage, demise, charter, or otherwise transfer, or dispose of any Vessel.

**SECTION 4.02. Time Charters; Liens**. (a) (1) The Mortgagor shall not enter into any time charter of the Vessels in excess of six months unless the time charter contains the following provision, “This time charter is subject to each of the rights and remedies of the Maritime Administrator of the Maritime Administration, an agency of the United States of America, and has been assigned to the Administrator under a Consolidated Agreement and a First Preferred [Fleet/Ship] Mortgage, each executed by the Shipowner in favor of the Administrator with respect to the Vessels being chartered.” and (2) shall, within ten (10) calendar days of entering into any time charter in excess of six months, transmit a copy of the time charter to the Mortgagee.

 (b) The Mortgagor shall not create, incur or permit to be placed or imposed on any Vessel, or permit any charterer, master of any Vessel or other Person to create, incur or permit to be placed or imposed on any Vessel, any Lien except Permitted Liens.

**SECTION 4.03.** **Vessels Operation.** Except when the Vessel is in Government Use, the Mortgagor shall not (a) cause or permit the Vessels to be operated in any manner contrary to law or to any lawful rules or regulations of the Maritime Administration, (b) remove or attempt to remove the Vessels beyond the limits of the United States without the Mortgagee’s prior consent except on voyages with the intention of returning to the United States, (c) abandon such Vessels in any foreign port unless there has been an actual or constructive total loss or an agreed or compromised total loss of any of the Vessels; (d) engage in any unlawful trade or violate any law or carry any cargo that will expose any Vessel to penalty, forfeiture, or capture, (e) do, or suffer or permit to be done, anything which can or may injuriously affect the documentation of the Vessel under the laws and regulations of the United States.

**SECTION 4.04.** **Service, Management and Operating Agreement.** The Mortgagor shall not enter into any service, management or operating agreement for the operation of the Vessel (excluding husbanding type agreements), or appoint or designate a managing or operating agent for the operation of the Vessel (excluding husbanding agents) unless approved by the Mortgagee.

***ARTICLE V***

***Defaults and Remedies***

**SECTION 5.01. What Constitutes “Defaults”; Continuance of Defaults.** Each of the following events shall constitute a “***Default***”:

(a) A default in the payment of the whole or any part of the interest on any of the Outstanding Advances when the same shall become due and payable; a default in the payment of the whole or any part of the Late Charges, prepayment or refinancing amounts, premiums or penalties when the same shall become due and payable; or default in the payment of the whole or any part of the principal of the Outstanding Advances when the same shall become due and payable, whether by reason of mandatory prepayment, maturity, acceleration, or otherwise; a default in any payment in compliance with a final order of a court of competent jurisdiction pursuant to any provision of the Bankruptcy Code or any Federal Law replacing or superseding such Code, or applicable state law or otherwise; and continuation of such default for a period of 30 days shall constitute and is herein called a "***Payment Default***." Any corresponding default with respect to the interest on, or the principal of, premiums or penalties due on, the Administrator’s Note and any default with respect to the mandatory prepayments due under the Agreement is also deemed to be a Payment Default;

(b) The following shall constitute and each is herein called a "***Security Default***:”

1. A default by the Mortgagor in the due and punctual observance and performance of any provision in Sections 2.09, 3.01, 3.04(c), 3.04(d), 3.04(e), 3.05, 3.07, 3.08, 3.12, 3.16, or 4.01 of this Mortgage or Sections 4.02, 10.09, 10.13, 10.14, 10.18, 11.01, 11.02, 11.03, 11.05, 11.06, 11.07, 11.08, 11.09, 12.01 12.02, 12.03, 13.03, 15.01, 15.02, 17.01, 17.02 or 17.03 of Annex C of the Agreement;
2. A default continuing for five (5) Business Days, unless otherwise stated, after written notice to Mortgagor from the Mortgagee specifying such failure by the Mortgagor in the due and punctual observance and performance of any provision in Sections 2.08, 3.03, 3.04(g), 3.04(h), 3.04(i), 3.04(j), 3.10 (except (f) and (j)), or 4.03 of this Mortgage or Sections 6.04, 6.06, 6.09, 7.07, 9.02, 10.08, 11.10 (except (g) and (k) thereof), and 11.13 of Annex C of the Agreement;
3. A default continuing for thirty (30) days after written notice to the Mortgagor from the Mortgagee by the Mortgagor in the due and punctual observance of any other provision, condition or covenant in this Mortgage or any provision set forth in, the Agreement, provided that the cure period shall be reduced to ten (10) days in connection with any failure to pay a debt due or make a payment due under Section 5.08 hereof or Sections 4.05 or 6.08 of Annex C of the Agreement;
4. The Mortgagor or any guarantors of the Mortgagor’s performance under this Mortgage, the Agreement or any other Transaction Document, becomes insolvent or bankrupt or ceases paying or providing for the payment of its debts generally, or the Mortgagor or any guarantor is dissolved or, by a court of competent jurisdiction, is adjudged a bankrupt, or makes a general assignment for the benefit of its creditors, or loses its charter by forfeiture or otherwise; or a petition for reorganization of the Mortgagor or any guarantor under the Bankruptcy Code is filed by the Mortgagor or any guarantor , or such petition is filed by creditors and the same is approved by such a court of competent jurisdiction; or a reorganization of the Mortgagor or any guarantor under the Bankruptcy Code is approved by a court, whether proposed by a creditor, a stockholder or any other Person whomsoever; or a receiver or receivers of any kind whatsoever, whether appointed in admiralty, bankruptcy, common law or equity proceedings, is appointed, by a decree of a court of competent jurisdiction, with respect to any Vessel, or all or substantially all of the Mortgagor’s or any guarantor’s property, and such decree shall have continued unstayed, on appeal or otherwise, and in effect for a period of 60 days;
5. Any other default in the due and punctual observance and performance of any provision set forth in this Mortgage, the Agreement and any other Transactions Documents;
6. Any representation or warranty made in this Mortgage, the Agreement or any other Transaction Document, or in any certificate required to be furnished pursuant thereto, is proven to be incorrect in any material respect;
7. Any event constituting a default under any security agreement or preferred mortgage under Chapter 313, relating to any other vessel or vessels owned by the Mortgagor or the Affiliate Guarantor, or guaranteed by the Affiliate Guarantor and financed under Chapter 537;
8. Any event constituting a default by the Mortgagor or the Affiliate Guarantor under any non-Chapter 537 debt of the Mortgagor or the Affiliate Guarantor;
9. Any Special Security Default; and
10. Any event constituting a default by the Mortgagor under any bareboat or time charter or contract of affreightment of the Vessel.

**SECTION 5.02. Remedies Upon Default.** (a)At any time following the occurrence of a Security Default, the Mortgagee may give the Holder a notice with respect to such Security Default, after which the Holder shall have the right to make demand for payment of the Guarantee in accordance with Chapter 537, unless the Mortgagee shall have assumed the Mortgagor’s rights and duties under the Note Purchase Agreement and Note, and made any payments in default under Chapter 537.

(b) Upon the occurrence of a Default, the Mortgagee shall have the right at its discretion to:

1. Declare the principal of the Administrator’s Note interest accrued thereon, premiums and all other monetary obligations due under the Administrator’s Note, the Agreement, this Mortgage or any of the other Transaction Documents to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Mortgagor, at any time after a Default has occurred and is continuing under the terms of this Mortgage, the Agreement or any of the other Transaction Documents. Thereupon, the principal of and interest on the Administrator’s Note shall become immediately due and payable, together with interest at the Approved Interest Rate applicable to each Advance under the Administrator’s Note; provided, however, that if any Default specified in Section 5.01(b)(4) hereof shall occur, the principal of, all interest on, premiums and all other monetary obligations due under the Administrator’s Note, the Agreement, this Mortgage or any of the other Transaction Documents shall thereupon become due and payable concurrently therewith, without any further action by the Mortgagee, and without presentment, demand, protest, notice of default, notice of acceleration, or of intention to accelerate or other notice of any kind, all of which the Mortgagor hereby expressly waives;
2. Take the Vessels without legal process wherever the same may be (and the Mortgagor or other Person in possession shall forthwith surrender possession of the Vessels to the Mortgagee upon demand) and hold, layup, lease, charter, operate, or otherwise use the Vessels for such time and upon such terms as the Mortgagee may reasonably deem to be in the Mortgagee’s best interest, accounting only for the net profits, if any, arising from the use of the Vessels, and charging against all receipts from the use of the Vessels, all reasonable charges and expenses relating to such Vessel’s use. IT IS EXPRESSLY UNDERSTOOD AND AGREED TO BY THE MORTGAGOR THAT SURRENDER OF ANY VESSEL UNDER THIS SECTION MUST BE AND WILL BE IMMEDIATE AND IN ACCORDANCE WITH THE DIRECTIONS OF THE MORTGAGEE. FAILURE OF THE MORTGAGOR TO IMMEDIATELY COMPLY WITH THE MORTGAGEE’S DEMAND FOR SURRENDER OF ANY VESSEL WILL CAUSE THE POSSESSION OF THE VESSEL BY THE MORTGAGOR (INCLUDING, BUT NOT LIMITED TO, POSSESSION AND CONTROL OF THE VESSEL BY A MASTER OR CREW MEMBER ON BOARD THE VESSEL) TO BE UNLAWFUL THEREBY SUBJECTING THE MORTGAGOR TO ALL FINES, PENALTIES AND ACTIONS WHICH THE MORTGAGEE DEEMS APPLICABLE AND APPROPRIATE. SHOULD THE MORTGAGOR CONTINUE TO OPERATE, POSSESS OR CONTROL THE VESSEL CONTRARY TO THE MORTGAGEE’S DIRECTIONS AND THE PROVISIONS HEREIN, THEN THE MORTGAGEE SHALL, IN ADDITION TO ANY OTHER RIGHTS AND REMEDIES AT LAW AND IN EQUITY, BE ENTITLED TO A TEMPORARY RESTRAINING ORDER AND/OR ORDER FOR INJUNCTIVE RELIEF NECESSARY TO GAIN COMPLIANCE HEREWITH. IN ADDITION TO EXPRESSLY CONSENTING THAT THE INJURY AND DAMAGE RESULTING FROM BREACH HEREOF WOULD BE IMPOSSIBLE TO MEASURE MONETARILY, MORTGAGOR EXPRESSLY WAIVES ANY DEFENSE BASED UPON AN ALLEGED EXISTENCE OF AN ADEQUATE REMEDY AT LAW.
3. Exercise all the rights and remedies in foreclosure and otherwise given to mortgagees by Chapter 313;
4. Bring suit at law, in equity or in admiralty to recover judgment for any and all amounts due or to enforce any rights under the this Mortgage, the Administrator’s Note or the other Transaction Documents to collect the same out of any and all property of the Mortgagor and/or the Affiliate Guarantor, whether or not the same is subject to the Lien of this Mortgage or the Agreement, and in connection therewith, obtain a decree ordering the sale of any Vessel in accordance with Subsection (b)(vi) of this Section;
5. Have a receiver of the Vessels appointed as a matter of right in any suit under this Section (and any such receiver may have the rights of the Mortgagee under Subsection (d) of this Section) and any receiver so appointed shall have full right and power to use and operate the Vessels;
6. Sell any Vessel, free from any claim of the Mortgagor, in addition to any and all other rights, powers, and remedies elsewhere in this Mortgage or by law granted to and conferred upon the Mortgagee, upon such terms and conditions as it may deem to be for its best advantage, including the right to sell and dispose of any Vessel free from any claim of or by the Mortgagor, at public sale, by sealed bids or otherwise, after twice publishing notice of the time and place of such sale prior to the proposed sale in the Authorized Newspaper, and by mailing notice of such sale to the Mortgagor at its last known address; such publication and mailing is to be made at least ten (10) Business Days prior to the date fixed for such sale; such sale may be held at such place and at such time as the Mortgagee in such notice may have specified, or may be adjourned by the Mortgagee from time to time by announcement at the time and place appointed for such sale or for such adjourned sale, and without further notice of publication and the Mortgagee may make any such sale at the time and place to which the same shall be so adjourned; and any such sale may be conducted without bringing any Vessel to the place designated for such sale and in such manner as the Mortgagee may deem to be for its best advantage, and the Mortgagee may become the purchaser at any such sale, and shall have the right to credit on the purchase price any or all sums of money due to the Mortgagee under the Administrator’s Note, this Mortgage, the Agreement, the other Transaction Documents or otherwise hereunder. THE MORTGAGOR EXPRESSLY AGREES AND ACKNOWLEDGES THAT SALE OF ANY VESSEL PURSUANT TO THIS SECTION WILL NOT IMPAIR OR LIMIT THE MORTGAGEE’S LEGAL RIGHT TO COLLECT FROM THE MORTGAGOR ANY DEFICIENCY REMAINING AFTER THE SALE. IF ANY APPLICABLE LEGAL AUTHORITIES MAY BE CONSTRUED TO LIMIT THE MORTGAGEE’S RIGHTS TO COLLECTION OF SAID DEFICIENCY FROM THE MORTGAGOR, THEN MORTGAGOR HEREBY EXPRESSLY WAIVES, RELINQUISHES AND FOREVER GIVES UP THE RIGHT TO AVAIL ITSELF OF SUCH LEGAL AUTHORITIES;
7. Accept a conveyance of title to, and to take without legal process (and the Mortgagor or other Person in possession shall forthwith surrender possession to the Mortgagee), the whole or any part of any Vessel and the Collateral wherever the same may be, and to take possession of and to hold the same;
8. In the Mortgagee’s discretion, take any and all action authorized by Sections 53715(c), 53724 and 53725 of Chapter 537 and any and all action provided for, or authorized, or permitted by, or with respect to the Collateral;
9. Receive, in the event of an actual or constructive total loss, or an agreed or compromised total loss, or a requisition of title to or use of any Vessel, all insurance or other payments therefor to which the Mortgagor would otherwise be entitled, such insurance moneys to be applied by the Mortgagee in accordance with Section 5.04 hereof; and
10. Pursue to final collection of all the claims arising under this Mortgage, the Agreement or any other Transaction Document and to collect such claims from the Collateral.

(c) The Mortgagor hereby irrevocably appoint the Mortgagee the true and lawful attorney of the Mortgagor, in its name and stead to make all necessary transfers of the whole or any part of the Vessels in connection with a sale, use or other dispositions pursuant to Section 5.02(b) hereof, and for that purpose it shall execute all necessary instruments of assignment and transfer, the Mortgagor hereby ratifying and confirming all that its said attorney shall lawfully do by virtue hereof. Nevertheless, the Mortgagor shall, if so requested by the Mortgagee in writing, ratify and confirm such sale by executing and delivering to the purchaser of any Vessel such proper bill of sale, conveyance, instrument of transfer, and release as may be designated in such request.

1. The Mortgagor hereby irrevocably appoints the Mortgagee the true and lawful attorney of the Mortgagor so long as a Default shall have occurred and shall not have been waived by the Mortgagee, in the name of the Mortgagor, to demand, collect, receive, compromise and sue for, so far as may be permitted by law, all hires, earnings, issues, revenues, income and profits of the Vessels and all amounts due from underwriters under any insurance thereon as payment of losses or as return premiums or otherwise, salvage awards and recoveries, recoveries in general average or otherwise, any right of action against the designer, builder, surveyor or other material party for any fault, negligence or deficiency in design, construction or survey of the Vessels and all other sums, due or to become due, at or after the time of the happening of any Default in respect of the Vessels or in respect of any insurance thereon from any person whomsoever, and to make, give and execute in the name of the Mortgagor, acquittances, receipts, releases or other discharges for the same, whether under seal or otherwise, and to endorse and accept in the name of the Mortgagor all checks, notes, drafts, warrants, agreements and all other instruments in writing with respect to the foregoing.
2. No remedy shall be exclusive of any other remedy, and each and every remedy shall be cumulative and in addition to any other remedy.
3. No delay or omission to exercise any right or remedy shall impair any such right or remedy or shall be deemed to be a waiver of any Default.
4. The exercise of any right or remedy shall not constitute an election of remedies by the Mortgagee.
5. If the Mortgagee discontinues any proceeding, the rights and remedies of the Mortgagee and of the Mortgagor shall be as though no such proceeding had been taken.

**SECTION 5.03. Waivers of Default.** (a) If the Mortgagee shall not have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537, and if the Mortgagee determines that an event which, with the passage of time, would become a Payment Default, has been remedied within thirty (30) days after the occurrence of such event, upon a Request by the Mortgagor, the Mortgagee shall waive the consequences of such event.

(b) If the Mortgagee shall not have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537, and if the Mortgagee shall have determined prior to payment of the Guarantee that a Payment Default has been remedied within thirty (30) days after the occurrence of such event, but prior to the date of demand by a Holder for payment under the Guarantee, upon a Request by the Mortgagor, the Mortgagee shall waive such Default.

(c) If the Mortgagee shall have determined prior to the expiration of the period required for payment of the Guarantee that a Payment Default had not occurred or has been subsequently remedied by the Mortgagor (and if the Mortgagee shall not have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537 and prior to any payment of the Guarantee), the Mortgagee shall notify the Holder and the Mortgagor of such determination, and, the Mortgagee shall waive such Default.

(d) The Mortgagee, in its sole discretion, may waive any Security Default or any event which by itself, or with the passage of time or the giving of notice, or both, would give rise to a Security Default.

(e) The Mortgagee shall notify the Mortgagor and the Holder in writing of any determinations made under Subsections (a), (b), and (c) of this Section, and the Mortgagee shall waive the consequences of any such Default, and annul any declaration under Section 5.02 of this Mortgage, and the consequences thereof.

(f) No waiver under this Section shall extend to or affect any subsequent or other Default, nor impair any rights or remedies consequent thereon.

(g) No waiver under this Section shall be deemed to have occurred because the Mortgagee shall have assumed the Mortgagor's rights and duties under the Note Purchase Agreement and the Note and made any payments in default under Chapter 537.

**SECTION 5.04. Application of Proceeds.** (a) The proceeds (from sale or otherwise) of the whole or any part of the Vessel and the other Collateral and use thereof by the Mortgagee under any of the foregoing powers, (b) the proceeds of any judgment collected by the Mortgagee for any Default hereunder, (c) the proceeds of any insurance and of any claim for damages to the whole or any part of the Vessel and the other Collateral received by the Mortgagee while exercising any such power, and (d) all other amounts received by the Mortgagee, including amounts which are required by Sections 3.03 and 3.10 hereof shall be applied by the Mortgagee in the following order:

(1) To the payment of all advances and all reasonable charges by the Mortgagee pursuant to this Mortgage, the Agreement, the Administrator’s Note or any other Transaction Document, including the expenses of any sale, counsel fees, the expenses of any taking of possession of any Vessel, costs and expenses of collection, and any other expenses or advances made or incurred by the Mortgagee in the protection and preservation of the Vessels or of its rights or in the pursuance of its remedies hereunder and to the payment of any damages sustained by the Mortgagee from the Default or Defaults of the Mortgagor; any debt owed by the Mortgagor to the Mortgagee which this Mortgage, the Administrator’s Note, the Agreement or any other Transaction Document states is entitled to be paid prior to the Administrator’s Note, and any payment due under this Mortgage, the Agreement or any of the other Transaction Documents, and at the option of the Mortgagee, to provide a fund adequate in the opinion of the Mortgagee to furnish suitable indemnity against liens claiming priority over this Mortgage;

(2) To the payment of Late Charges payable under Paragraphs 11 and 16 of the Note;

(3)To the payment of premiums payable under Paragraphs 14 and 15 of the Note;

(4)To the payment of the whole amount of interest then due and unpaid upon the Administrator’s Note; provided, however, that such application of funds shall not cure or be deemed to cure a Default;

(5)To the payment of the whole amount of the principal then due and unpaid upon the Administrator’s Note; provided, however, that such application of funds shall not cure or be deemed to cure a Default;

(6) To the Mortgagee for application to any other debt of the Mortgagor due to the Mortgagee under any other financing guaranteed by the Mortgagee under Chapter 537; and

(7) Any surplus then remaining shall belong and be paid or returned to the Mortgagor or to whomever shall be lawfully entitled to receive the same.

**SECTION 5.05. Mortgagor’s Rights in Absence of Default.** Except during the existence of a Default, the Mortgagor (a) shall be permitted to retain actual possession and use of the Vessel, and (b) shall have the right, from time to time, in its discretion and without the consent of or release by the Mortgagee, after providing not less than thirty (30) days prior notice to the Mortgagee, to dispose of, free from the Lien granted to the Mortgagee pursuant to Article IV of Annex C of the Agreement and this Mortgage, any and all engines, machinery, masts, boats, anchors, cables, chains, rigging, tackle, apparel, furniture, capstans, outfit, tools, pumps, pumping and other equipment, and all other appurtenances to the Vessels, and also any and all additions, improvements and replacements in or to the Vessels or said appurtenances, after first or simultaneously replacing the same with items of at least substantially equal value.

**SECTION 5.06. Divesture of Rights, Title and Interest.** Any sale of any Vessel pursuant to this Mortgage shall operate to divest and forever bar the Mortgagor from any and all right, title and interest of any nature whatsoever of the Mortgagor therein and thereto. No purchaser shall be bound to inquire whether notice has been given, or whether any Default has occurred, or as to the propriety of the sale, or as to the application of proceeds thereof.

**SECTION 5.07. General Powers of Mortgagee.** (a)In the event that any Vessel shall be arrested or detained by a marshal or other officer of any court of law, equity, or admiralty jurisdiction in any country or nation of the world or by any government or other authority and shall not be released from arrest or detention within fifteen (15) days from the date of arrest or detention, the Mortgagor hereby authorizes and empowers the Mortgagee in the name of the Mortgagor and does hereby irrevocably appoint the Mortgagee and its successors and assigns the true and lawful attorney of the Mortgagor, in its name and stead to apply for and receive possession of and to take possession of the Vessels with all rights and powers that the Mortgagor might have, possess, or exercise in any such event. This power of attorney shall be irrevocable and may be exercised not only by the Mortgagee but also by an appointee or appointees, with full power of substitution, to the same extent as if the said appointee or appointees had been named as one of the attorneys above named by express designation.

(b) The Mortgagor also authorizes and empowers the Mortgagee or the Mortgagee’s appointee or appointees, as the true and lawful attorney of the Mortgagor, to appear in the name of the Mortgagor, or its successors or assigns, in any court of any country or nation of the world where a suit is pending against any Vessel because of or on account of any alleged Lien against the Vessel from which the Vessel has not been released and to take such proceedings as to them or any of them as may seem proper towards the defense of such suit and the discharge of such Lien, and all expenditures made or incurred by them or any of them for the purpose of such defense or discharge shall be deemed to be an indebtedness of the Mortgagor and shall be secured by this Mortgage and shall be immediately due and payable and, until paid, shall bear interest at the Expended Funds Rate plus two percent (2%).

(c) The Mortgagor irrevocably authorizes the Mortgagee or its appointee (with full power of substitution) to appear in the name of the Mortgagor in any court of any country or nation of the world where a suit is pending against the whole or any part of the Collateral because of, or on account of, any alleged Lien or claim against the whole or any part of the Collateral, from which the whole or said part of the Collateral has not been released. The Mortgagee shall not be obligated to (nor be liable for the failure to) take any action provided for in Subsections (a) and (b) of this Section.

**SECTION 5.08. Additional Debts of Mortgagor to Mortgagee.** (a) If the Mortgagor shall fail to perform any covenant, condition or agreement set forth in any of the Transaction Documents, the Mortgagee may, in its discretion, at any time during the continuance of an event which by itself, with the passage of time, or the giving of notice, would constitute a Default, perform all acts and make all necessary expenditures to remedy such failure. Notwithstanding the foregoing, the Mortgagee shall not be obligated to (and shall not be liable for the failure to) perform such acts and make such expenditures. All funds advanced and expenses and damages incurred by the Mortgagee relating to such compliance shall constitute a debt due from the Mortgagor to the Mortgagee and shall be secured hereunder prior to the Administrator’s Note and shall be repaid by the Mortgagor upon demand, together with interest at the Expended Funds Rate plus two percent (2%).

(b) (1) All funds advanced and expenses incurred by the Mortgagee pursuant to Subsection (a) of this Section, the Agreement and the Transaction Documents; (2) all other expenses incurred incident to the exercise by the Mortgagee of any rights and remedies pursuant to this Article or any other provisions of this Mortgage, the Agreement, the other Transaction Documents and the Note Purchase Documents or in connection with the assumption by the Mortgagee of the rights and duties of the Mortgagor under the Note Purchase Agreement and the Note; and (3) all payments made to the Holder as a result of the default of the Mortgagor under Chapter 537 (including, but not limited to, fees paid to the Holder for expenses incident to the assumption of the Note Purchase Agreement by the Mortgagee), shall constitute a debt due from the Mortgagor to the Mortgagee and shall also be secured hereunder and the other Transaction Documents prior to the Administrator’s Note and shall be repaid by the Mortgagor upon demand together with interest at the Expended Funds Rate plus two percent (2%). All payments required to be made by the Mortgagor under the Transaction Documents shall be made by wire transfer in immediately available funds in accordance with payment instructions provided by the Mortgagee.

**SECTION 5.09.** **Authority of United States.** The Mortgagor agrees, acknowledges and consents to take all steps, measures or actions which are within the discretion or authority of the Mortgagee.

**SECTION 5.10. Consent to Jurisdiction for Foreclosure of Mortgage.** The Mortgagor hereby expressly and irrevocably consents to the jurisdiction of the United States District Court where the Vessel is to be surrendered by the Mortgagor at the direction of the Mortgagee pursuant to Section 5.02 hereof or, absent such direction by the Mortgagee, to the jurisdiction of any court in any country whatsoever having jurisdiction over any Vessel for the foreclosure of this Mortgage, the sale of the Vessel, or the enforcement of any other remedy or right hereunder, and hereby expressly and irrevocably submits the person of the Mortgagor and the Vessel to the jurisdiction of any such court in any country in any such action or proceeding.

**SECTION 5.11. Consent to Jurisdiction for Proceeding Relating to Mortgage.** This Mortgage shall in all respects be governed by and construed in accordance with the federal laws of the United States, including federal common law. The Mortgagor irrevocably submits to the jurisdiction of the United States District Court of the Jurisdiction State/City, in any proceeding relating to this Mortgage and agrees that any process or summons in any such action may be served by mailing to Mortgagor a copy thereof, unless the Mortgagee has instituted proceedings in a United States District Court which maintains jurisdiction over where the Vessel may be located and, in such case, Mortgagor consents to and subjects itself to the jurisdiction of that federal court.

**SECTION 5.12. Chapter 537 Rights and Remedies.** The Mortgagee, in addition to such other rights or remedies it may have, shall have the right, in its discretion, to take any and all action authorized by Chapter 537 and, to the extent not in express conflict with the action authorized by said Sections, any and all action provided for in or authorized or permitted by or in respect of this Mortgage, the Agreement, the Administrator’s Note, the other Transaction Documents, any Note Purchase Documents, and policies of insurance (including all action provided for in or authorized or permitted by or in respect of any or all said documents by the Mortgagee) and public policy, as the case may be.

**SECTION 5.13. Restoration of Rights and Position.** In case the Mortgagee shall have proceeded to enforce any right, power, or remedy under this Mortgage by foreclosure, entry, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Mortgagee, then and in every such case the Mortgagor and the Mortgagee shall be restored to their former positions and rights hereunder with respect to the property subject or intended to be subject to this Mortgage, and all rights, remedies, and powers of the Mortgagee shall continue as if no proceedings had been taken.

**SECTION 5.14. Remedies Cumulative.** Each and every power and remedy herein specifically given to the Mortgagee or otherwise in this Mortgage shall be cumulative and shall be in addition to every other power and remedy herein specifically given or now or hereafter existing at law, in equity, admiralty, or by statute, and each and every power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and as often and in such order as may be deemed expedient by the Mortgagee, and shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other power or remedy. No delay or omission by the Mortgagee in the exercise of any right or power or in the pursuance of any remedy occurring upon a Default shall impair any such right, power, or remedy or be construed to be a waiver of any such Default or to be any acquiescence therein; nor shall the acceptance by the Mortgagee of any security or of any payment of or on account of the Administrator’s Note maturing after any Default or of any payment on account of any past Default be construed to be a waiver of any right to take advantage of any future Default or of any past Default not completely cured thereby.

***ARTICLE VI***

***Miscellaneous***

**SECTION 6.01. Notices.** Except as otherwise provided in this Mortgage or by Chapter 537, all notices, requests, demands, directions, consents, waivers, approvals or other communications hereunder must be in writing and may be made or delivered in person or by registered or certified mail, postage prepaid, or by electronic or facsimile transmission with confirmation, addressed to the party at the address of such party specified in Appendix 2, or at such other address as such party shall advise each other party by notice in accordance with this Section, and shall be effective upon receipt by the addressee thereof. Each party shall provide a United States address for the purpose of service of process.

**SECTION 6.02. Waivers of Notice.** In any case where notice by publication, mail or otherwise is provided for by this Mortgage, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be deemed the equivalent of such notice.

**SECTION 6.03. Officer’s Certificates.** To satisfy a covenant or condition provided for in this Mortgage, the Responsible Officer of the Person making such Officer’s Certificate shall certify that the officer (a) has read such covenant or condition; (b) has made or caused to be made such examination or investigation as is necessary to enable the Officer to express an informed opinion with respect to such covenant or condition; and (c) believes to the best of the Officer’s knowledge that such condition or covenant has been met. An Officer’s Certificate shall set forth the pertinent supporting information and shall be subject to the Mortgagee’s review of its adequacy and accuracy.

**SECTION 6.04. Successors and Assigns.** All the covenants, promises, stipulations and agreements of the Mortgagee and Mortgagor in this Mortgage shall bind the Mortgagee and Mortgagor and its respective successors and assigns. This Mortgage is for the sole benefit of the Mortgagor, the Mortgagee, and their respective successors and assigns, and no other Person shall have any right hereunder.

**SECTION 6.05. Table of Contents, Titles and Headings.** The table of contents, and titles of the Articles and the headings of the Sections are not a part of this Mortgage and shall not be deemed to affect the meaning or construction of any of its provisions.

**SECTION 6.06. Applicable Regulations**. Only the provisions of the regulations issued under Chapter 313 and Chapter 537, as amended, modified or supplemented from time to time, shall control the provisions of this Mortgage.

**SECTION 6.07. Surrender of Vessel Documents**. The Mortgagee shall consent to the surrender of each Vessel's documents in connection with any re-documentation of such Vessel required on account of alterations to such Vessel which are not prohibited by this Mortgage.

**SECTION 6.08. Amendments and Supplements to the Mortgage.** This Mortgage may not be amended or supplemented orally, but may be amended or supplemented from time to time only by an instrument in writing executed by the Mortgagor and the Mortgagee.

**SECTION 6.09. Counterparts.** This Mortgage may be executed simultaneously in any number of counterparts and all such counterparts executed and delivered each as an original shall constitute but one and the same instrument.

**SECTION 6.10. No Waiver of Preferred Status of Mortgage.** No provision of this Mortgage, the Agreement or any of the other Transaction Documents shall be deemed to constitute a waiver under Section 31305 of Chapter 313 by the Mortgagee of the preferred status of this Mortgage given by Section 31322 of Chapter 313, and any provision of this Mortgage, the Agreement or any of the other Transaction Documents which would otherwise constitute such a waiver, shall to such extent be of no force and effect. In the event that any provision of this Mortgage would, as a matter of law, operate to waive the preferred status thereof, such provision for all intents and purposes, shall be deemed eliminated therefrom as though such provision had never been inserted herein.

**SECTION 6.11. Termination and Discharge.** If the Note and the related Administrator’s Note shall have been satisfied and discharged, and if the Mortgagor shall pay or cause to be paid all other sums that may have become secured under this Mortgage, the Agreement and the other Transaction Documents, then this Mortgage, the Agreement and the Liens, estate and rights and interests hereby and thereby granted, shall cease, terminate, and become null and void, and the Mortgagee, on the Mortgagor’s Request and at the Mortgagor's cost and expense, shall forthwith cause satisfaction and discharge and duly acknowledge such satisfaction and discharge of this Mortgage and the Agreement to be entered upon its and other appropriate records, and shall execute and deliver to the Mortgagor such instruments as may be necessary, and forthwith the estate, right, title and interest of the Mortgagee in and to the Collateral, and any other securities, cash, and any other property held by it under this Mortgage and the Mortgage, shall thereupon cease, determine and become null and void, and the Mortgagee shall transfer, deliver and pay the same to the Mortgagor.

**SECTION 6.12. Release of Liens.** If the Guarantee on the Outstanding Note shall have been terminated pursuant to Section 2.04(b) of Annex C of the Agreement, the Mortgagee shall release the Liens, estate, rights and interests in the Collateral granted to it by the Mortgagor pursuant to this Mortgage and the Agreement.

(SIGNATURE PAGE ON FOLLOWING PAGE)

**IN WITNESS WHEREOF**, this instrument has been executed on the date first written above.[[1]](#footnote-2)

(**SEAL) MORTGAGOR**

 **Attest:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **Name:**

 **Title:**

**ACKNOWLEDGMENT**

[JURISDICTION] )

 ) SS:

[JURISDICTION] )

On this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Notary Public in and for the [JURISDICTION], personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ duly known to me to be \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the entity described in and that executed the instrument hereto annexed and acknowledged to me that the seal affixed to said instrument is such entity’s seal, that it was so affixed by authority set forth in the documents constituting and governing such entity, and that he/she signed his/her name thereto by like authority.

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 NOTARY PUBLIC

 My Commission Expires:

(NOTARIAL SEAL)

**APPENDIX 1**

**TO MORTGAGE**

**DEFINITIONS**

**1. Definitions.** Except as otherwise specified herein or as the context may otherwise require, the following terms have the respective meanings set forth below for all purposes of this Mortgage.

*“Actual Cost”* means the actual cost of a Vessel, as set forth on Table A of Appendix 2 of this Mortgage or as subsequently re-determined by the Mortgagee pursuant to the Agreement and Chapter 537.

*“Actual Cost Paid”* means the amount paid by the Mortgagor for the Vessels as set forth in column [2J] on Table A of Appendix 2 of this Mortgage.

*"Administrator’s Guarantee”* has the same meaning as the term “*Guarantee*.”

*“Administrator’s Note”* means the promissory note issued and delivered by the Mortgagor to the Mortgagee, as originally executed and as the same may be amended, modified, supplemented or endorsed, including any promissory note issued in substitution thereof.

*“Advance”* means an advance of funds made by FFB under a particular Note.

*“Affiliate”* means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

*“Affiliate Guarantor”* means each, and “*Affiliate Guarantors*” means every, affiliated entity of the Mortgagor set forth on Appendix 2 of this Mortgage opposite such term that have executed the Affiliate Guaranty.

*“Agreement”* has the meaning set forth in Recital C of this Mortgage.

 *“Amount of Administrator’s Guarantee”* has the meaning set forth on Appendix 2 of this Mortgage opposite such term.

 *“Approved Interest Rate”* means the interest rate per annum set forth on Appendix 2 of this Mortgage opposite such term which is established for each Advance made under the Note.

 *“Authorized Newspaper”* means The Wall Street Journal or any such other newspaper as the Mortgagee may designate by notice to the Mortgagor.

*“Bankruptcy Code”* means Title 11 of the United States Code.

*“Business Day”* means a day on which both FFB and the Federal Reserve Bank of New York are open for business.

*“Chapter 313”* means the provisions of Chapter 313 of Title 46 of the United States Code, as amended.

*“Chapter 537”* means the provisions of Title XI of the Merchant Marine Act of 1936, now codified at Chapter 537 of Title 46 of the United States Code, as amended.

*“Chapter 537 Reserve Fund”* means the account established pursuant to Section 6.01 of Annex C of the Agreement and held in the name of and for the benefit of the Mortgagee at Treasury pursuant to Sections 53712 and 53716 of Chapter 537 to be administered pursuant to Article VI of Annex C of the Agreement and to be utilized by the Mortgagee as Collateral pursuant to Article IV of Annex C of the Agreement.

*“Classification Society”* means the American Bureau of Shipping or either a member of the International Association of Classification Societies (“*IACS*”) that has been ISO 9000 series registered or an IACS member that meets the requirements of the International Maritime Organization, is qualified under a Quality Systems Certificate Scheme and recognized by the United States Coast Guard and the Mortgagee as meeting acceptable standards.

*“Closing Date”* means the date when this Mortgage is executed and delivered by the Mortgagor and the Mortgagee as set forth on the first page of this Mortgage.

*“Collateral”* has the meaning set forth in the granting clause of this Mortgage.

*“Construction”* means construction of the Vessels, including designing, inspecting, outfitting and equipping thereof

*“Control”* means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “*Controlling*” and “*Controlled*” have meanings correlative thereto.

*“Default”* has the meaning set forth in Section 5.01 of this Mortgage.

*“Delivery Date*” means the date on which a Vessel is delivered to and accepted by the Mortgagor.

*“Depreciated Actual Cost”* means the depreciated Actual Cost of a Vessel set forth in Appendix 2 of this Mortgage opposite such term or as subsequently re-determined by the Mortgagee pursuant to the Agreement and Chapter 537.

*“Expended Funds Rate”* means a rate of interest equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week immediately preceding the date funds were expended by the Mortgagee.

*“FFB”* means the Federal Financing Bank, a body corporate and instrumentality of the United States.

*“Financing”* has the same meaning as the term “*Mortgage Period Financing*.”

“*Foreign Item Waivers*” means all waivers granted by the Mortgagee to permit the inclusion of any item of foreign components and/or services incorporated or to be incorporated into any Vessel into the Actual Cost of such Vessel pursuant to 46 C.F.R. § 298.13, which waivers, if any, are set forth on Appendix 2 of this Mortgage opposite such term.

*“GAAP”* means those generally accepted accounting principles, standards and procedures and practices in effect in the United States that are recognized as such by the American Institute of Certified Public Accountants or by the Financial Accounting Standards Board or through other appropriate boards or committees thereof, and that are consistently applied for all periods, after the date hereof, so as to properly reflect the financial position of a Person, except that any accounting principle or practice required to be changed by the Financial Accounting Standards Board (or other appropriate board or committee of the said Board) in order to continue as a generally accepted accounting principle, standards and procedures may be so changed.

*“Government”* means the United States of America or any of its governmental bodies, departments and agencies.

*“Government Use”* means the use of a Vessel or requisition of its title required by a government or the Government.

*“Guarantee”* or the “Administrator’s Guarantee” means the guarantee by the United States, acting through the Mortgagee pursuant to Chapter 537, of the Note as provided for in the Agreement and the Note Purchase Documents.

“*Guarantee Fee*” means the guarantee fee payable by the Mortgagor under Section 53714(b) of Chapter 537 as set forth on Appendix 2 of this Mortgage opposite such term.

*“Holder”* means FFB, for so long as it shall be the holder of the Note, and any successor or assignee of FFB, for so long as such successor or assignee shall be the holder of the Note.

*“Insurance Requirements”* means amount of insurance per occurrence and in the aggregate set forth on Appendix 2 of this Mortgage opposite such term.

*“Intended Payment Date”* means the particular date on which the Mortgagor intends to prepay the Note based upon Section 3.03 of this Mortgage, which must be a Business Day.

*“Jurisdiction of Organization”* means, with respect to the Mortgagor, the state of organization set forth on the first page of this Mortgage and, with respect to the Affiliate Guarantor(s), means the state of organization set forth on Appendix 2 of the Mortgage opposite the term “*Affiliate Guarantor*”.

“*Jurisdiction State/City*” means the state set forth on Appendix 2 of this Mortgage opposite such term.

*“Late Charges”* means the interest, default interest or late payment premiums or penalties by the Mortgagor at any time and from time to time accrued and owing under the Note and the Note Purchase Documents.

*“Lien”* means each, and *“Liens”* means every mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, rights in rem, lien (statutory or other), claim, charge, right of set-off or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, and any financing lease having substantially the same economic effect as any of the foregoing).*“*

*“Loan Commitment Amount”* means the particular amount specified in Schedule I to the Note Purchase Agreement as being the “*Loan Commitment Amount*.”

*“Loss Event”* means any (a) actual, constructive, agreed or compromised total loss of a Vessel, (b) requisition of title to, or seizure or forfeiture of a Vessel or (c) termination of the Construction Contract.

*“Mandatory Loss Prepayment”* means the mandatory prepayment of the Advances required as a result of a Loss Event pursuant to Section 3.03 of this Mortgage.

*“Mandatory Loss Prepayment Amount”* means an amount equal to the Proportionate Part of the Outstanding Advances affected by a Loss Event.

*“Mandatory Prepayment Election”* means the mandatory election of the Mortgagor required to be made pursuant to Section 3.03 of this Mortgage to prepay all or any portion of the Outstanding Advances, in the manner, at the price, and subject to the limitations specified in Paragraph 14 of the Note.

*“Mandatory Prepayment Election Notice”* means the written notification, in the form specified in Paragraph 14(b) of the Note, delivered to FFB (and if FFB is not the Holder, then also to the Holder) and the Mortgagee of the payment of each mandatory prepayment made pursuant to Section 3.03 of this Mortgage, which notice may not be rescinded.

*“Material Adverse Effect”* means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, liabilities (actual or contingent), or condition (financial or otherwise) of the Mortgagor or the Affiliate Guarantor, individually and taken as a whole; (b) a material impairment of the rights and remedies of the Mortgagee under any Transaction Document, or of the ability of either (1) the Mortgagor, (2) the Affiliate Guarantor or (3) the Mortgagor and the Affiliate Guarantor taken as a whole, to perform its or their, as applicable, obligations under any Transaction Document to which it is or they are, as applicable, a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against either (1) the Mortgagor, (2) the Affiliate Guarantor or (3) the Mortgagor and the Affiliate Guarantor taken as a whole, of any Transaction Document to which any of them is a party.

*“Maximum Payment Amount of Losses Directly to Mortgagor”* means the amount as set forth on Appendix 2 of this Mortgage opposite such term.

*“Maximum Principal Amount”* shall have the same meaning as the term Loan Commitment Amount.

*“Maximum Self-Insurance Amount”* means the amount as set forth on Appendix 2 of this Mortgage opposite such term.

*“Mortgage”* means this first preferred fleet mortgage on the Vessels (or first preferred ship mortgage on the Vessel, as the case may be) by the Mortgagor to the Mortgagee, as originally executed, modified, amended or supplemented.

*“Mortgage Period Financing”* means the financing provided by the issuance of the Note for the purpose of providing permanent financing of the Vessels.

*“Note”* means the Note issued by the Mortgagor to FFB pursuant to the Note Purchase Agreement dated as of the date set forth in Appendix 2 of this Mortgage opposite such term.

*“Note Purchase Agreement”* means the Note Purchase Agreement among FFB, the Mortgagor and the Mortgagee dated as of the date set forth in Appendix 2 of this Mortgage opposite such term.

*“Note Purchase Document”* means the Note, the Note Purchase Agreement or any other document executed in connection therewith and “*Note Purchase Documents*” means all of such documents.

*“Officer's Certificate”* means a certificate conforming to Section 6.03 of this Mortgage.

*“Organizational Documents”* means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws; (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable governmental authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

*“Organizational Form”* means, with respect to the Mortgagor, the organizational form set forth on Appendix 2 of this Mortgage opposite the term “*Mortgagor*” and, with respect to the Affiliate Guarantor(s), means the organizational form set forth on Appendix 2 of this Mortgage opposite the term “*Affiliate Guarantor*”.

*“Outstanding”* means, when used with reference to the Note, all Advances theretofore made under the Note, except Advances that have been Paid.

*“Paid”* means, as applied to the Note and the indebtedness evidenced thereby, the applicable Advances that have been paid in full (by prepayment, at maturity or otherwise) and are no longer entitled to any rights or benefits provided pursuant to the Transaction Documents.

*“Payment Default”* has the meaning set forth in Section 5.01(a) of this Mortgage.

*“Permitted Liens”* means:

(a) The rights of the Shipyard under the Construction Contract, if any;

(b) Liens on any undelivered Vessel which the Shipyard is obligated to discharge under the Construction Contract;

(c) Special Subordinated Liens;

(d) Liens with respect to loans, mortgages and indebtedness guaranteed by the Mortgagee under Chapter 537 or related to the construction of a vessel approved pursuant to Chapter 537 by the Mortgagee;

(e) Liens arising for damages out of tort covered by insurance, except for any deductible amounts applicable thereto, for wages of a stevedore when employed directly by the owner, operator, master, ship’s husband or agent of any Vessel, for wages of the crew of any Vessel, for general average, for salvage, including contract salvage, provided the same are paid immediately when due;

(f) Liens in favor of any person furnishing repairs, supplies, towage, use of dry dock or marine railway, or other necessaries to any Vessel on the order of the Mortgagor, or of a person authorized by the Mortgagor, provided that the same are paid immediately when due;

(g) Liens imposed on any Vessel for taxes or governmental charges or levies, provided that the same are paid immediately when due;

(h) Liens incurred in the ordinary course of business of any Vessel not relating to money borrowed which (1) will be paid immediately when due, and (2) which, in the aggregate, at any time are not material to the operations or financial condition of the Mortgagor;

(i) Liens arising by operation of law as a result of the modification of and repairs to any Vessel, including mechanic’s liens, provided that the same are paid immediately when due; and

(j) Liens in favor of the Mortgagee granted pursuant to the Agreement, this Mortgage or the other Transaction Documents.

*“Person”* or *“Persons”* means any individual, corporation, partnership, joint venture, association, limited liability company, joint stock company, trust, unincorporated organization, other entity, government, or any agency or political subdivision thereof.

*“Proportionate Part"* means, with respect to the item in question, the portion of the item in question, as of the date of any calculation, which bears the same proportion to the entire amount of the item in question as: (a) the Depreciated Actual Cost of the Vessel as of the date of such calculation bears to (b) the Depreciated Actual Cost of all the Vessels as of such date, all as determined by the Mortgagee.

*“Request”* means a written request to a Person for the action therein specified, signed by a Responsible Officer of the Person making such request.

*“Responsible Officer”* means, in the case of any business entity, the chairman of the board of directors, the president, any executive or senior vice president, the secretary, the treasurer, the managing member or the general partner of such business entity.

*“Security Default”* has the meaning specified in Section 5.01(b) of this Mortgage.

*“Shipyard”* means each, and *“Shipyards”* means every, Shipyard set forth on Appendix 2 of this Mortgage opposite such term.

*“Special Security Default”* means those additional events constituting a Security Default under this Mortgage as set forth on Appendix 2 of this Mortgage opposite such term.

*“Special Subordinated Liens”* means those Liens that are permitted by the Mortgagee to be subordinate to this Mortgage under the Agreement and the other Transaction Documents as set forth on Appendix 2 of this Mortgage opposite such term.

*“Stated Maturity Date”* means the date determinable as set forth in the Note and the Administrator’s Note as the final date on which the principal of and unpaid interest on the Note and the Administrator’s Note is due and payable and as set forth on Appendix 2 of this Mortgage opposite such term.

*“Transaction Document”* means this Mortgage, the Agreement, the Administrator’s Note, the Note, any Note Purchase Document or any other related document, and *“Transaction Documents”* means all of such documents.

*“Treasury”* means the United States Department of Treasury.

*“United States”* or *“U.S.”* means the United States of America.

*“Vessel”* or *“Vessels”* has the meaning set forth in Recital A of this Mortgage.

## 2. Other Interpretive Provisions.  With reference to this Mortgage, unless otherwise specified herein:

(a)      The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.  Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.  The words “*include*,” “*includes*” and “*including*” shall be deemed to be followed by the phrase “*without limitation*.”  The word “*will*” shall be construed to have the same meaning and effect as the word “*shall*.”  Unless the context requires otherwise, (1) any definition of or reference to any agreement, instrument or other document (including any Organizational Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Transaction Document), (2) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (3) the words “*herein*,” “*hereof*” and “*hereunder*,” and words of similar import when used, shall be construed to refer to the Mortgage in its entirety and not to any particular provision thereof, (4) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (5) the words “*asset*” and “*property*” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b)       In the computation of periods of time from a specified date to a later specified date, the word “*from*” means “*from but not including*;” the words “*to*” and “*until*” each mean “*to and including*;” and the word “*through*” means “*to and including*.”

(c)        Section headings herein and in the other Transaction Documents are included for convenience of reference only and shall not affect the interpretation of this Mortgage or any other Transaction Document.

**APPENDIX 2**

**TO THE MORTGAGE**

**INFORMATION SPECIFIC TO THE MORTGAGE**

|  |  |
| --- | --- |
| **Actual Cost (*See* Section 4.04 and Table A of this Appendix):** | $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(*See* Table A below for Calculation and Itemization) |
| **Affiliate Guarantor(s):** | Name:Organizational Form:Jurisdiction of Organization:□None |
| **Affiliated Guarantor(s)’ Address for Notices:**  | Street Address:Name of Contact:Fax Number:Telephone Number:Email Address: |
| **Agreement:** | Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Amount of the Administrator’s Guarantee (*See* Recitals):** | $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (plus interest to the date of payment) |
| **Approved Interest Rate (*See* Section 5.02):** | For each deemed Advance under the Administrator’s Note, the basic interest rate per annum applicable to the corresponding Advance under the Note plus, in the event the Mortgagor elects a Par Prepayment/Refinancing Privilege with respect to such Advance under such Note, a fee (expressed in terms of a basis point incremental to the applicable interest rate) determined by FFB on the basis set forth in the Note. |
| **Depreciated Actual Cost (*See* Table A of this Appendix):** | □ $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(*See* Table A below for Calculation and Itemization)□ Not Applicable |
| **FFB Address for Notices:** | Federal Financing BankMain Treasury Building1500 Pennsylvania Avenue, NWWashington, D.C. 20220ATTN: Chief Financial OfficerTelephone No.: (202) 622-2470Facsimile No.: (202) 622-0707 |
| **Foreign Item Waivers (*See* Table A of this Appendix):** | □ Specify: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ None |
| **Guarantee Fee (*See* Table A of this Appendix):** | $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_□ Mortgagor Election to Include Guarantee Fee as item of Actual Cost of Vessels |
| **Insurance Requirements (*See* Section 3.09):** | $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ per occurrence and $\_\_\_\_\_\_\_\_\_\_ in the aggregate |
| **Jurisdiction State/City (*See* Section 5.11)** |  |
| **Maximum Self-Insurance Amount (*See* Section 3.10):**  | $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Maximum Payment Amount of Losses Directly to Mortgagor (*See* Section 3.10):**  | $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Mortgagee’s Address for Notices:** | MARITIME ADMINISTRATORMaritime Administration1200 New Jersey Avenue, S.E. Washington, D.C. 20590ATTN: Office of Marine FinancingTelephone No.: (202) 366-5737Facsimile No.: (202) 366-7901Email Address: marinefinancing@dot.gov |
| **Mortgagor’s Address for Notice** | Name:Address:Telephone No.Email Address:Organizational Form:Jurisdiction of Organization: |
| **Note Purchase Agreement:** | Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Shipyard:** |  [Name of Shipyard constructing Vessel]  |
| **Shipyard Project:** | [Name of Shipyard where project is located] |
| **Special Subordinated Liens (*See* Appendix 1 definition of Permitted Liens):** | [Insert description of any Liens permitted by the Mortgagee to be subordinate to this Mortgage and to any other Lien granted to the Mortgagor] |
| **Stated Maturity Date (*See* Section 3.04):** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, the date set forth in the Note as the “Maturity Date”□ Twenty (20) years from Closing Date□ Twenty-Five (25) years from Closing Date□ Other: \_\_\_\_\_\_\_\_ years from Closing Date |
| **Special Security Default (*See* Section 5.01):** |  |
| **Vessels:** | Type:Number of Vessels:\_\_\_\_\_Name (if applicable) and USCG Documentation Number:1.2.3.4. |

**TABLE A**

As determined by the Administrator, (a) the aggregate Actual Cost of the Vessels is $\_\_\_\_\_\_\_\_ representing (1) the amounts paid by or for the account of the Mortgagor as of the date hereof for the Construction of the Vessels plus (2) the amount which the Mortgagor is on the date hereof obligated to pay under the Construction Contract or is otherwise from time to time hereafter obligated to pay for the Construction of the Vessels; and (b) the aggregate Depreciated Actual Cost of the Vessels is $\_\_\_\_\_\_\_\_\_\_ representing (1) the aggregate Actual Cost of the Vessels as of the date hereof less (2) the depreciation of the Vessels as of the date hereof, both calculated and itemized for [each Vessel/the Vessels] as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Item of Cost**[1] | **Amount Paid**[2] | **Amount Obligated to be Paid**[3] | **Total**[4] |
| [A] | Shipyard Contract Price  |  |  | **$** |
| [B] | Contract Changes and Extras |  |  |  |
| [C] | Owner Furnished Items |  |  |  |
| [D] | Design, Engineering and Inspection |  |  |  |
| [E] | Foreign Items Exclusions (unless Foreign Item Waivers applicable) |  |  | **(\_\_\_\_\_\_\_\_\_\_\_\_\_\_)** |
| [F] | Subtotal([4A] + [4B] + [4C] + [4D] - [4E]) = [4F]) |  |  | **$** |
| [G] | Estimated Guarantee Fee |  |  |  |
| [H] | Construction Period Interest |  |  |  |
| [I] | Approved Construction Contract Escalation |  |  |  |
| [J] | **Total Actual Cost**([4F] + [4G] + [4H] + [4I] = [4J]) |  |  | **$** |
| [K] | Depreciation Recognized from Vessel Delivery Date to Closing Date |  |  | **(\_\_\_\_\_\_\_\_\_\_\_\_\_\_)** |
| [L] | **Total Depreciated Actual Cost**([4J] – [4K]) = [4L]) |  |  | **$** |

(End of Appendix 2)

**APPENDIX 3**

**TO THE MORTGAGE**

**SPECIAL PROVISIONS**

1. [↑](#footnote-ref-2)