**ANNEX J**

**FORM OF ASSIGNMENT OF INSURANCES**

**ASSIGNMENT OF INSURANCES**

**THIS** **ASSIGNMENT OF INSURANCES** (this “***Assignment***”) is made as of \_\_\_\_\_\_\_\_\_, 20\_\_\_, by\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a (the "***Shipowner***"), to and in favor of the United States of America (the "***United States***"), represented by the Maritime Administrator of the Maritime Administration (the "***Administrator***"), pursuant to Chapter 537 of Title 46 of the United States Code (“***Chapter 537***”).

**RECITALS:**

A. The Shipowner and the Administrator are parties to the Consolidated Agreement, Contract No. MA-\_\_\_\_\_\_, dated \_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ (the “***Agreement***”);

B. The Shipowner intends to issue the Administrator’s Note in the Amount of Administrator’s Note pursuant to the Agreement;

C. The Agreement requires the Shipowner to secure the payment of the Administrator’s Notes by Liens on, among other things, the Collateral (as herein defined), including the Insurances (as herein defined); and

D. This Assignment sets forth the terms on which the Shipowner grants an assignment of, and a Lien on, the Collateral in favor of the Administrator as collateral security for the Obligations.

***NOW, THEREFORE,*** in consideration of the premises herein and to induce the Administrator to issue the Guarantee and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

***ARTICLE I***

***DEFINITIONS***

**SECTION 1.01.** **Definitions.** As used herein:

(a) Unless otherwise defined herein, capitalized terms used herein have the respective meanings set forth in the Agreement;

(b) Unless otherwise defined herein, with respect to Uniform Commercial Code (“***UCC***”) terms, all other capitalized terms contained in this Assignment and not otherwise defined herein shall have, when the context so indicates, the meanings provided for by the UCC, as adopted in the UCC State, to the extent the same are used or defined therein; and

(c) 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 Assignment:

*“Collateral”* has the meaning set forth in Section 2.01 of this Assignment.

*“Insurances”* has the meaning set forth in Section 2.01 of this Assignment.

*“Obligations”* means all of the obligations and liabilities of the Shipowner under the Agreement, the Administrator's Note, the Mortgage and the other Transaction Documents and as collateral security for and with respect to the Guarantee whether now made or hereafter entered into.

*“Vessels”* means the vessels described in Exhibit A.

***ARTICLE II***

***ASSIGNMENT***

**SECTION 2.01. Assignment**. As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations, the Shipowner does hereby assign, transfer and convey to the Administrator, its successors and assigns, and does hereby grant to the Administrator, its successors and assigns, a first priority continuing security interest in, lien on, and right of setoff against, all policies and contracts of insurance, including, without limitation, the Shipowner’s rights under all entries in any protection and indemnity or war risks associations or clubs, which are from time to time taken out by or for the Shipowner in respect of the Vessels, their hull, machinery, freights, disbursements, profits or otherwise, and all the benefits thereof and all other rights of the Shipowner in respect thereof, including, without limitation, all claims of whatsoever nature, as well as return premiums (all of which are herein collectively called the “***Insurances***”), and in and to all moneys and claims for moneys in connection therewith and all proceeds and products of all of the foregoing, wherever located, whether now owned or at any time hereafter acquired by the Shipowner or in which the Shipowner now has or at any time in the future may acquire any right, title or interest (collectively, the “***Collateral***”).

In addition to the rights granted to the Administrator, the Shipowner hereby further transfers and assigns to the Administrator by way of security any and all such Liens, financing statements or similar interests of the Shipowner attributable to its interest in the Collateral arising under or created by any statutory provision, judicial decision or otherwise.

**SECTION 2.02. Payments.** During the continuance of a Default, the Administrator shall be entitled to receive all payments of Insurances in respect of any Vessel payable to the Shipowner and assigned hereby. The Shipowner shall cause all sums so payable to the Shipowner and assigned hereby to be paid directly to the Administrator to an account designated by the Administrator for such purpose. **THE SHIPOWNER AGREES TO INDEMNIFY AND HOLD HARMLESS ANY AND ALL PARTIES (INCLUDING FOR SUCH PERSONS’ OWN ORDINARY NEGLIGENCE) MAKING PAYMENTS TO THE ADMINISTRATOR UNDER THE ASSIGNMENT CONTAINED HEREIN, AGAINST ANY AND ALL LIABILITIES, ACTIONS, CLAIMS, JUDGMENTS, COSTS, CHARGES AND ATTORNEYS’ FEES RESULTING FROM THE DELIVERY OF SUCH PAYMENTS TO THE ADMINISTRATOR, AND ALL SUCH AMOUNTS TOGETHER WITH SUCH INTEREST THEREON SHALL BE PART OF THE OBLIGATIONS. THE INDEMNITY AGREEMENT CONTAINED IN THE PREVIOUS SENTENCE IS MADE FOR THE DIRECT BENEFIT** **OF AND SHALL BE ENFORCEABLE BY ALL SUCH PERSONS**. Should the Administrator bring suit against any third party for collection of any amount or sums included within this Assignment (and the Administrator shall have the right to bring any such suit), it may sue either in its own name or in the name of the Shipowner, or both.

**SECTION 2.03. Performance under Insurances; No Duty of Inquiry.** The Shipowner hereby undertakes that it shall punctually perform all of its obligations under all Insurances pertaining to the Vessels to which it is a party. It is hereby expressly agreed that, anything contained herein to the contrary notwithstanding, the Shipowner shall remain liable under all Insurances pertaining to the Vessels to perform the obligations assumed by it thereunder, and the Administrator shall have no obligation or liability of any nature whatsoever under any such Insurances (including, without limitation, any obligation or liability with respect to the payment of premiums, calls or assessments) by reason of, or arising out of, this Assignment, nor shall the Administrator be required to assume or be obligated in any manner to perform or fulfill any obligation of the Shipowner under or pursuant to any such Insurances. Nothing in this Assignment shall be deemed or construed to create a delegation to or assumption by the Administrator, of the duties and obligations of the Shipowner under any agreement or contract relating to the Vessels or the Insurances. All of the parties to any such Insurances or contracts shall continue to look to the Shipowner for performance of all covenants and other obligations and the satisfaction of all representations and warranties of the Shipowner thereunder, notwithstanding the rights granted to the Administrator hereunder or the exercise by the Administrator of any such rights hereunder or under applicable law. The Administrator shall not be required to make any payment or make any inquiry as to the nature or sufficiency of any payment received by the Administrator, or, unless and until indemnified to its satisfaction, to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which may have been assigned to it or to which it may be entitled hereunder or pursuant hereto at any time or times.

**SECTION 2.04. No Modification of Obligations.** Nothing herein contained shall modify or otherwise alter the obligation of the Shipowner to make prompt payment of all Obligations, including principal and interest owing thereon, when and as the same become due regardless of whether the Collateral is sufficient to pay the same and the rights provided in accordance with the foregoing assignment provision shall be cumulative of all other security of any and every character now or hereafter existing to secure payment of the Obligations. Nothing in this Assignment is intended to be an acceptance of collateral in satisfaction of or in discharge of the Obligations.

**SECTION 2.05. Affirmative Covenants.** Until all of the Obligations have been fully and finally paid and the Agreement and the other Transaction Documents have been terminated, the Shipowner hereby covenants and agrees with the Administrator to:

(a) do, cause to be done or permit to be done each and every act or thing which the Administrator may from time to time reasonably require to be done for the purpose of enforcing the Administrator’s rights under this Assignment and the Shipowner will allow its name to be used as and when required by the Administrator for that purpose; and

(b) forthwith give notice in the form attached to this Assignment as Exhibit C of this Assignment, or cause its insurance brokers to give notice, of this Assignment to all insurers, underwriters, clubs and associations providing insurance in connection with the Vessels and procure that such notice is endorsed on all the policies and entries of insurances in respect of the Vessels and are endorsed to provide that the Administrator shall be named in a manner such that it is afforded the stature of additional insureds, as its interest may appear, and the Administrator shall be named loss payee.

**SECTION 2.06. Negative Pledge.** The Shipowner does hereby warrant and represent that it has not assigned or pledged, and hereby covenants that it will not assign or pledge so long as this Assignment shall remain in effect, any of its right, title or interest in the whole or any part of the Collateral hereby assigned to anyone other than the Administrator, and it will not take or omit to take any action, the taking or omission of which might result in an alteration or impairment of the rights hereby assigned or any of the rights created in this Assignment.

**SECTION 2.07. Notices; Loss Payable Clauses.**

(a) All Insurances, except entries in protection and indemnity associations or clubs or insurances effected in lieu of such entries, relating to the Vessel shall contain a loss payable and notice of cancellation clause in the form attached to this Assignment as Exhibit B or in such other form as the Administrator may agree; and

(b) All entries in protection and indemnity associations or clubs or insurances effected in lieu of such entries relating to the Vessels shall contain a loss payable and notice of cancellation clause in the form attached to this Assignment as Exhibit C or in such other form as the Administrator may agree.

**SECTION 2.08. Attorney-in-Fact.** The Administrator shall not be liable for any delay, neglect, or failure to effect collection of any proceeds or to take any other action in connection therewith or hereunder; but the Administrator shall have the right, at its election, in the name of the Shipowner or otherwise, to prosecute and defend any and all actions or legal proceedings deemed advisable by the Administrator in order to enforce this Assignment and to protect the interests of the Administrator and the holder(s) of the Administrator’s Note, and/or the Shipowner, with all costs, expenses and attorneys’ fees incurred in connection therewith being paid by the Shipowner. The Shipowner does hereby irrevocably appoint and constitute the Administrator as the Shipowner’s true and lawful attorney-in-fact with full power (in the name of the Shipowner or otherwise), to ask, require, demand, receive, compound, and give acquittance for any and all moneys and claims for moneys assigned hereby, to endorse any checks or other instruments or orders in connection therewith, to file any claims or take any action or institute any proceedings which the Administrator may deem to be necessary or advisable in the premises, and to file, without the signature of the Shipowner, any and all financing statements or similar documents, other instruments, documents or agreements or renewals thereof arising from this Assignment which the Administrator may deem to be reasonably necessary or advisable in order to perfect or maintain the security interest granted hereby; provided, however, the Administrator shall not take any action pursuant to the power granted by this Section 2.08 unless a Default shall have occurred and be continuing. Such appointment of the Administrator as attorney-in-fact is irrevocable and is coupled with an interest. Nothing contained in this Section 2.08 shall be deemed or considered as creating any obligation on the part of the Administrator to take any of the actions described herein.

**SECTION 2.09. Application of Proceeds.** All moneys collected or received by the Administrator pursuant to this Assignment shall be applied as provided in Section 14.04 of Annex C of the Agreement.

**SECTION 2.10. Remedies Cumulative and Not Exclusive; No Waiver.** Each and every right, power and remedy given herein, in the Agreement and the other Transaction Documents to the Administrator shall be cumulative and shall be in addition to every other right, power and remedy of the Administrator now or hereafter existing at law, in equity or by statute, and each and every right, power and remedy, whether herein given or otherwise existing, may be exercised from time to time, in whole or in part, and as often and in such order as may be deemed necessary by the Administrator, and the exercise or the commencement of the exercise of any right, power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy. Without limitation of the foregoing, during the continuation of a Default, the Administrator shall have the rights and remedies of a secured party under the UCC. No delay or omission by the Administrator in the exercise of any right or power in the pursuance of any remedy accruing upon any breach or default by the Shipowner shall impair any such right, power or remedy or be construed to be a waiver of any such right, power or remedy or to be an acquiescence therein; nor shall the acceptance by the Administrator of any security or of any payment of or on account of any of the amounts due from the Shipowner to the Administrator and maturing after any breach or default or of any payment on account of any past breach or default be construed to be a waiver of any right to take advantage of any future breach or default or of any past breach or default not completely cured thereby.

**SECTION 2.11. Invalidity.** If any provision of this Assignment shall at any time for any reason be declared or decided to be invalid, void or otherwise inoperative by a court of competent jurisdiction, such declaration or decision shall not affect the validity of any other provision or provisions of this Assignment, or the validity of this Assignment as a whole. In the event that by reason of any law or regulation in force or to become in force, or by reason of a ruling of any court of competent jurisdiction, or by any other reason whatsoever, this Assignment is rendered either wholly or partly defective, the Shipowner shall furnish the Administrator with an alternative assignment or security and do all such other acts as are reasonably required in order to ensure and give effect to the full intent of this Assignment.

**SECTION 2.12. Continued Security.** It is declared and agreed that the security created by this Assignment shall be held by the Administrator as a continuing security for the payment of all moneys which may at any time and from time to time be or become payable by the Shipowner in connection with the Obligations and that the security so created shall not be satisfied by any intermediate payment or satisfaction of any part of the amount hereby secured and that the security so created shall be in addition to and shall not in any way be prejudiced or affected by any collateral or other security now or hereafter held by the Administrator for all or any part of the moneys hereby secured.

**SECTION 2.13. Termination.** The Administrator shall terminate this Assignment and release the Collateral subject to the provisions of Article XVI of Annex C of the Agreement and the relevant provisions of this Assignment. Except as may be expressly applicable pursuant to Section 9-620 of the UCC, no action taken or omission to act by the Administrator shall be deemed to constitute a retention of the Collateral in satisfaction of the Obligations or otherwise to be in full satisfaction of the Obligations, and the Obligations shall remain in full force and effect, until the Administrator and the Holder(s) shall have applied payments (including, without limitation, collections from Collateral) towards the Obligations in the full amount then outstanding or until such subsequent time as is provided in the Agreement. If this Assignment has terminated and any payment actually received by the Administrator is subsequently invalidated, rescinded, declared to be fraudulent or preferential or set aside and is required to be repaid under any bankruptcy or other similar law, then this Assignment shall be reinstated and its provisions will continue in effect for the benefit of the Administrator until such amounts are fully and finally paid in cash.

**SECTION 2.14. Notices.** Any notices or communications hereunder shall be made in accordance with Section 18.03 of Annex C of the Agreement.

**SECTION 2.15. Waiver; Amendment.** No amendment, modification, or waiver of any provision of this Assignment, and no consent with respect to any departure of the Shipowner therefrom, shall be effective unless the same is in writing executed by the Shipowner and the Administrator.

**SECTION 2.16. Further Assurances.** The Shipowner agrees that at any time and from time to time, upon the written request of the Administrator, the Shipowner will promptly and duly execute and deliver any and all such further instruments and documents as the Administrator may deem desirable in obtaining the full benefits of this Assignment (including, without limitation, in connection with the perfection of the security interest created hereby) and of the rights and powers herein granted.

**SECTION 2.17. Governing Law.** This Assignment shall be governed by and construed in accordance with the laws of the United States of America, including federal common law, and, absent applicable federal law, the laws of the Governing Law State, notwithstanding its conflict of laws rules.

*(SIGNATURE PAGE ON FOLLOWING PAGE)*

**IN WITNESS WHEREOF**, the Shipowner has caused this Assignment to be executed as of the day and year first above written.

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| --- | --- | --- |
| (SEAL)Attest: |  | SHIPOWNER |
| By: |  |  | By: |  |
| Name: |  |  | Name: |  |
| Title: |  |  | Title: |  |

**EXHIBIT A**

**TO ASSIGNMENT OF INSURANCE**

**Vessels**

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **Vessel**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |    | **Official/Hull No.**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |    | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
|  |    | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
|  |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |
| All of the foregoing are United States flag Vessels. |    |   |

**EXHIBIT B**

**TO ASSIGNMENT OF INSURANCES**

**LOSS PAYABLE CLAUSE**

**Hull and Machinery (War Risks)**

For any loss in excess of $ [Maximum Payment AMOUNT of Losses Directly to Shipowner], underwriters shall make all payments hereunder directly to THE UNITED STATES OF AMERICA, represented by the Maritime Administrator of the Maritime Administration (the “***Administrator***”) pursuant to its instructions. Notwithstanding the preceding sentence, unless otherwise required by the Administrator by notice to the underwriters stating that a default is continuing, although losses hereunder are payable to the Administrator, any loss (other than an actual or constructive total loss) with respect to a Vessel involving any damage to a Vessel, may be paid directly for the repair, salvage or other charges involved or, if \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “***Shipowner***”) shall have first fully repaired the damage or paid all of the salvage or other charges, may pay Shipowner as reimbursement therefor; provided, however, that if such damage involves a loss in excess of $[Maximum Payment of Losses Directly to Shipowner], the underwriters shall not make such payment without first obtaining the written consent thereto of the Administrator.

In the event of the actual total loss or agreed, compromised or constructive total loss of a Vessel, payment shall be made to the Administrator, for deposit into an account designated for such purpose by the Administrator.

The Administrator shall be advised:

1. at least 30 days before cancellation of this insurance may take effect;
2. of any failure to renew any such insurance at least 30 days prior to the date of renewal thereof;
3. of any act or omission or of any event of which the insurer has knowledge and which might invalidate or render unenforceable in whole or in part any such insurance; and
4. of any default in the payment of any premium with respect to, or the material alteration of, any such insurances.

**EXHIBIT C**

**TO ASSIGNMENT OF INSURANCES**

**LOSS PAYABLE CLAUSE**

**Protection and Indemnity**

Payment of any recovery in excess of $[Maximum Payment AMOUNT of Losses Directly to Shipowner] that [NAME OF SHIPOWNER] (the “***Shipowner***”) is entitled to make out of the funds of the Insurer in respect of any liability, costs or expenses incurred by it shall be made to THE UNITED STATES OF AMERICA, represented by the Maritime Administrator of the Maritime Administration (the “***Administrator***”), and all recoveries shall thereafter be paid directly to the Administrator. Notwithstanding the preceding sentence, unless otherwise required by the Administrator by notice to the underwriters stating that a default is continuing, although losses hereunder are payable to the Administrator, any loss under any insurance on a Vessel with respect to protection and indemnity risks may be paid directly to Shipowner to reimburse it for any loss, damage or expense incurred by it and covered by such insurance or to the person to whom any liability covered by such insurance has been incurred; provided, however, that if any such payment is in excess of $[Maximum Payment AMOUNT of Losses Directly to Shipowner], the underwriters shall not make such payment without first obtaining the written consent thereto of the Administrator.

The Administrator shall be advised:

1. at least 30 days before cancellation of this insurance may take effect;
2. of any failure to renew any such insurance at least 30 days prior to the date of renewal thereof;
3. of any act or omission or of any event of which the insurer has knowledge and which might invalidate or render unenforceable in whole or in part any such insurance; and
4. of any default in the payment of any premium with respect to, or the material alteration of, any such insurances.

**EXHIBIT D**

**TO ASSIGNMENT OF INSURANCES**

**NOTICE OF ASSIGNMENT OF INSURANCES**

TO:

TAKE NOTICE:

1. that by an Assignment of Insurances (the “***Assignment***”) dated \_\_\_\_\_\_\_\_\_\_\_, 20\_\_ (“***Effective Date***”) made by us to THE UNITED STATES OF AMERICA, represented by the Maritime Administrator of the Maritime Administration (the “***Administrator***”), a copy of which is attached hereto, we have collaterally assigned to the Administrator as of the Effective Date, *inter alia*, all our right, title and interest in, to and under all policies and contracts of insurance, including our rights under all entries in any protection and indemnity or war risk association or club, which are from time to time taken out by us in respect of the [             ] flag Vessel                      (the “***Vessel***”), Official/Hull No.                     , and all the benefits and earnings of such insurances thereof including all claims of whatsoever nature (all of which together are hereinafter called the “***Insurances***”).
2. that you are hereby irrevocably authorized and instructed to pay as from the Effective Date hereof all payments under all Insurances, except entries in protection and indemnity associations or clubs or insurances effected in lieu of such entries, relating to the Vessel in accordance with the loss payable clause in Exhibit B of the Assignment of Insurances.
3. all entries in protection and indemnity associations or clubs or insurances affected in lieu of such entries relating to the Vessel in accordance with the loss payable clause in Exhibit C of the Assignment of Insurances.
4. that you are hereby instructed to endorse the Assignment, notice of which is given to you herein, on all policies or entries relating to the Vessel.

DATED AS OF THE      day of                     , 20\_\_\_.

*(SIGNATURE PAGE ON FOLLOWING PAGE)*

|  |  |
| --- | --- |
|  [SHIPOWNER] |  |
| By: |  |  |
| Name: |  |  |
| Title: |  |  |

We hereby acknowledge receipt of the foregoing Notice of

Assignment and agree to act in accordance with the terms thereof:

|  |  |
| --- | --- |
|  |  |
| By: |  |  |
| Name: |  |  |
| Title: |  |  |