NEWBUILDCON

BIMCO STANDARD FORM

STANDARD NEWBUILDING CONTRACT

PART I

1. Place and date of Contract (Cl. 3, Cl. 44(b), Cl. 47)

   [*] 2026, Ireland

2. Builder's name, full style address and contact details (Definitions) Name: Address: Country: Phone/Fax: E-mail: Company registration No. Additional names, addresses and contact numbers: Name: Address: Country: Phone/Fax: E-mail: Company registration No.	3. Buyer's name, full style address and contact details (Definitions) Name: **Port of Waterford Company** Address:**3rd Floor, Marine Point, Belview Port, Waterford** Country: **Ireland** Phone/Fax:**+353 51 874907** E-mail:**info@portofwaterford.com** Company registration No. **299445** Additional names, addresses and contact numbers: Name: Address: Country: Phone/Fax: E-mail: Company registration No.
4. Vessel description/type (Definitions, Cl. 2(b)) **Pilot Boat**	State vessel type: (i) Dry bulk carrier: (ii) Tanker: (iii) Container vessel: (iv) Other (state type):**Pilot Boat**

A. Main dimensions (Cl. 2(b)):

(i) LOA (m): **14-5 -15.0m (as per Specification)**
(ii) Length between perpendiculars (m):**N/A**
(iii) Deadweight capacity DWT (mts):**TBC**
(iv) Mean draft in salt water (m):**1.0m - 2.0m**

B1. Cargo capacity (Cl. 2(b)(v) and Cl. 11):

(i) Cubic capacity:
N/A
(ii) Bale capacity:
N/A
(iii) Grain capacity:
N/A

B2. TEU carrying capacity (only if applicable) (state number of containers): N/A

(i) Total on deck
   a. 20''/40''/45'' TEU:
   b. No. of reefers:
(ii) Total under deck
   a. 20''/40''/45'' TEU:
   b. No. of reefers:
(iii) No. of TEU homogenous loaded at 14 mts.

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C. Main engine(s): (Cl. 2(b)(ii), Cl. 2(b)(iv) and Cl. 9)

(i) Maker/Type: **TBC on award of contract**
(ii) Max. Continuous Rating (MCR) (kilowatts at MCR):**TBC**
(iii) RPM at MCR:**TBC**
(iv) Specific Fuel Oil Consumption at MCR:**TBC**
(v) Normal Continuous Rating (NCR):**TBC**
(vi) RPM at NCR:**TBC**
(vii) Type of fuel and specification (including Calorific Value (kcal/kg)):**Marine Grade Gas Oil/Biofuel or biofuel blends**

D. Average speed (Cl. 2(b)(i) and Cl. 8)

(i) Service speed at design draft (m): **20-21 Knots**
(ii) Min. number of knots:**20 knots**
(iii) Engine output (kilowatts at MCR):**368**
(iv) Percentage of engine's max. continuous power/sea margin:
(vi) RPM:**1800**

E. Other matters (optional)(state any other technical requirements for the particular vessel type) (Cl. 2(b)(vi) and Cl. 12)

Comply Irish Merchant Shipping Regulations (Passenger Boat) SI N. 2732/2002 as amended for a Class P5 vessel and Special Service Craft for operational area G2A

Built under survey by MSO for Issue of an Irish Passenger Boat License for up to 7 persons

Class Society Moulding Certificate

See Part A - Technical Specification RFT

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5. Shipyard(s) (if different from Box 2) (Full style address and contact details) (Definitions)

Name:
Address:

Country:
Phone/Fax:
E-mail:

Additional names, addresses and contact numbers:

Name:
Address:

Country:
Phone/Fax:
E-mail:

Name:
Address:

Country:
Phone/Fax:
E-mail:

Additional names, addresses and contact numbers:

Name:
Address:

Country:
Phone/Fax:
E-mail:

6. Builder's Hull Number (Definitions, Cl. 2(a))

TBC

7. Flag State (Definitions)

Waterford, Ireland

8. Classification Society/Class Notation (Definitions, Cl. 3)

TBC on awrd of contract

9. Contract Price and Currency (Definitions, Cl. 7)

(a) Price **TBC**
(b) Currency**Euro**

10. Contractual Date of Delivery (Definitions, Cl. 14(c)(iii)(1))

3 years from date of this agreement

11. Payment Amounts and Time Due (Definitions, Cl.7, Cl.15, Cl.39(c))

1st Instalment (see Cl. 15(a)(i)) **On contract award - 20%**

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12. Builder's Bank Account Details (Cl. 15(d))

Name:

Address:

13. Speed Deficiency (Cl. 8, Cl. 39(a)(iv))

(i) Contract Price reduction amount: **€25,000**
(ii)Maximum amount: (state monetary limit):**€100,000**

2nd Instalment and time due **On completion of Hull Structure - 20%**

3rd Instalment and time due **On Ordering of Main Engine Propulsion Package - 20%**

4th Instalment and time due **On Fitting of Deck and Wheelhouse - 10%**

5th Instalment and time due
On Completion of Boat and successful trials and MSO Class P5 certification and certification stipulated in RFT Annex 2 - 10%

Final Instalment (see Cl. 15(a)(iv))**On Delivery, Training and Acceptance on receipt and validation of all relevant documentation as per terms of RFT Annex 2 - 20%**

14. Excessive Fuel Consumption (Cl. 9, Cl. 39(a)(v))

(i) Contract Price reduction amount: **€50,000**
(ii) Maximum amount: (state monetary limit):**€75,000**

15. Deadweight Deficiency (Cl. 10, Cl. 39(a)(vi))

(i) Deadweight tolerance: **50 DWT**
(ii) Contract Price reduction amount:**€5,000**
(iii) Maximum amount: (state monetary limit):**€50,000**

16. Cubic Deficiency (Cl. 11, Cl. 39(a)(vii))

(i) Cubic capacity tolerance: **N/A**
(ii) Contract Price reduction amount:**N/A**
(iii) Maximum amount: (state monetary limit): **N/A**

17. Other Deficiencies (Optional)(Cl. 12, Cl. 39(a)(viii))

18. Late Delivery Compensation (Cl. 13)

(i) Amount per day: **Day 1-30 - €1000 per day, Day**
31-60 €2,000 per day
(ii) Maximum amount: (state monetary limit):**€100,000**

19. Guarantees (Cl. 14(a) and (b))

~~(a) Buyer's guarantees~~
~~(i) Number of days after signing Contract:~~
~~(ii) Buyer's Instalment/Performance Guarantee~~:

(b) Builder's guarantee
(i) Number of days after signing Contract: **5 Banking Days**

20. Guarantee Period (state number of months. If left blank 12 months shall apply) (Cl. 35(a)(i))
3 years engines and gearboxes

5 years glazing on windows

Otherwise 12 months

21. Additional Guarantee Period (state number of months) (Cl. 35(e))
N/A

22. Suspension and Termination (Cl. 39)

(i) Running period (state number of days): **14 days**
(ii) Notice period (state number of days):**5 days**

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23. Governing law and Dispute Resolution (Cl. 41 and Cl. 42) (a) Governing law **(d)** (b) Place of dispute resolution**Ireland, High Court**	24. Guarantee Engineer (state monthly lump sum) (Cl. 36(b)) **N/A**
25. Effective Date of Contract (state conditions to be fulfilled) (Cl. 44(a))	26. State number of days within which conditions have to be satisfied (Cl. 44(b))
27. Optional additional vessels (state number) (Cl. 46) **N/A**	28. Optional additional vessels contract price and delivery dates (Cl. 46) **N/A**
29. Declaration of Options (state number of months after Effective date) (Cl. 46)	30. Interest (state rate of interest) (Cl. 18, Cl. 38(b)(ii)(2)(i), Cl. 39(e), Cl. 39(f)(i)(2), Cl. 39(f)(ii)(2) and Cl. 39(f)(v)) **2.5%**
~~31~~. ~~Buyer's Guarantor (state name of bank or party as appropriate, full style address and contact details) (Cl. 14(a))~~ ~~Name~~: ~~Address~~: ~~Country~~: ~~Phone/Fax:~~ ~~E-mail:~~	32. Builder's Guarantor (state name of bank or party as appropriate, full style address and contact details) (Cl. 14(b), Cl. 27(d)(iv)(3)) Name: Address: Country: Phone/Fax: E-mail:
33. Additional Annexes **Annex A (iii) Refund Guarantee** **Annex A (iv) - Irrevocable Letter of Guarantee for Builder's Obligations under clause27** **Annex B Specification - TBC** **Annex C Maker's List - TBC**	34. Numbers of Additional Clauses

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This Contract consists of PART I including additional clauses, if any agreed and stated in Box 34, and PART II as well as any Annexes agreed and attached hereto and shall be performed subject to the conditions contained herein. In the event of a conflict of conditions the provisions of PART I shall prevail over those of PART II to the extent of such conflict, but no further.

The Specification, Maker's List, Plans, and/or Drawings hereafter approved by the Buyer shall form part of this Contract, but in the event of conflict between the provisions of this Contract and the Specification, Maker's List, Plans and/or drawings, the provisions of this Contract shall prevail. In the event of inconsistency between the Specification and Maker's List, on the one hand and the Plans and/or Drawings on the other, the Specification/Maker's List shall prevail. In the case of inconsistency between any of the Plans and/or Drawings, the later in date shall prevail.

Signature (Builder)	Signature (Buyer)

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PART II

DEFINITIONS

In this Contract:

"Banking Day" means a day on which banks are open in the places stated in Box 2 and Box 3 and, where a remittance is in US dollars, in New York.

"Builder" means the company or companies stated in Box 2, organised and existing under the laws of the country or countries stated in Box 2 having their principal office at the address stated in Box 2 and including their personnel. If more than one company is stated in Box 2 then they shall be jointly and severally liable.

"Buyer" means the company or companies stated in Box 3, organised and existing under the laws of the country or countries stated in Box 3 having their principal office at the address stated in Box 3 and including their personnel.

"Buyer's Representative" means the named representative of the Buyer who may be present at the Shipyard throughout the construction of the Vessel.

"Buyer's Supplies" means all of the items to be provided by the Buyer in accordance with the Specification at its own risk, cost and expense.

"Classification Society" means the classification society stated in Box 8.

"Contract Price" means the amount stated in Box 9 as may be adjusted in accordance with the terms of this Contract.

"Contract" means this BIMCO Standard Newbuilding Contract consisting of Part I including additional Clauses, if any agreed, and Part II as well as any Annexes (including the Specification and Maker's List) and Plans and Drawings attached hereto.

"Contractual Date of Delivery" means the contractual date of delivery stated in Box 10.

"Defects" means any deficiencies or defects in the design, construction, material and/or workmanship on the part of the Builder or its Sub-contractors.

"Delivery Date" means the Contractual Date of Delivery as may be adjusted in accordance with the terms of this Contract.

"Final Instalment" means the last instalment payable at delivery calculated in accordance with Clause 15 (Payments).

"Flag State" means the State of the flag which the Vessel will fly when registered, as stated in Box 7.

"Instalments" means the amounts payable in accordance with Box 11."In writing" means any method of legible communication.

"Maker's List" means the list of suppliers for equipment, machinery and services approved by the Parties and stated in Annex C.

"Parties" means the Builder and the Buyer.

"Party" means the Builder or the Buyer, as the case may be.

"Permissible Delays" means delays to the construction and/or delivery of the Vessel and which entitle the Builder to extend the Delivery Date in accordance with Clause 34 (Permissible Delays).

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"Personnel" means the employees, agents, servants, suppliers and independent contractors engaged by either Party in order to perform work or duties under this Contract for which that Party is responsible.

"Plans and Drawings" means the plans and drawings attached hereto or listed and/or described in the Specification.

"Regulatory Authorities" means the regulatory authorities whose rules and regulations must be complied with in the construction and delivery of the Vessel. Such bodies shall include the Flag State together with the other bodies listed in the Specification.

"Shipyard" means the place or places stated in Box 5 where the Vessel will be assembled and/or constructed.

"Specification" means the technical details contained in Annex B.

"Sub-contractor" means any person (not being a servant or employee of the Builder) or company with whom the Builder has entered into a contract for the design, construction, manufacture or supply of any item, equipment, work or service for the Vessel.

"Vessel" means the vessel described in Box 4 (including its machinery, equipment and appurtenances described in the Specification) with hull number as per Box 6, built in accordance with this Contract.

INTERPRETATION

Singular/Plural

In this Contract the singular includes the plural and vice versa as the context admits or requires.

Headings

The index and headings to the Clauses and Annexes to this Contract are for convenience only and will not affect its construction or interpretation.

Jointly and severally

All covenants, agreements, undertakings, indemnities, representations and warranties by more than one person are entered into, given or made by such persons jointly and severally.

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SECTION 1 – VESSEL

1. Builder's and Buyer's obligations

It is mutually agreed between the Builder and the Buyer that:

(a) the Builder shall design, construct, test and survey, launch, equip, complete, sell and deliver the Vessel to the Buyer all in accordance with good international shipbuilding and marine engineering practice; and

(b) the Buyer shall purchase, take delivery of and pay for the Vessel.

2. Description

(a) The Vessel shall be constructed at the Shipyard and shall have the Builder's Hull Number stated in Box 6.

(b) The Vessel shall have the dimensions and characteristics as stated in Box 4 and the Specification. These shall be defined, measured and calculated in accordance with the Specification or, if omitted from the Specification, in accordance with the following:

(i) Speed – The Vessel's average speed on a sea trial undertaken in both directions over a measured distance of one (1) nautical mile, with clean hull, in weather with wind speed and sea state not exceeding Beaufort Wind Force Scale 3 and Douglas Sea State Scale 2 respectively on a draft as stated in Box 4D(i) shall be at least the number of knots stated in Box 4D(ii). During such a sea trial the engine's output in kilowatts shall be as stated in Box 4D(iii)

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corresponding to the percentage of the engine's maximum continuous power output stated in Box 4D(iv) at the approximate revolutions per minute stated in Box 4D(v).

(ii) Fuel Consumption - The fuel consumption of the main engine on the test bed using fuel of the type and specification stated in Box 4C(vii) shall not exceed the number of grams per kilowatt/hour stated in Box 4C(iv) when the engine develops the number of kilowatts with an effective calorific value of the number of kilocalories per kilogram stated in Box 4C(ii) and Box 4C(vii) respectively.

(iii) Deadweight - The Vessel's deadweight shall be the number of metric tons stated in Box 4A(iii) on international summer freeboard, corresponding to a mean draft in saltwater (specific gravity 1.025) as stated in Box 4A(iv). The specified deadweight shall include fuel, provisions, stores, freshwater, crew and passengers in addition to spare parts not less than the requirements of the Classification Society.

(iv) Propulsion - The Vessel's propulsion machinery shall be of the type and with maximum continuous power in kilowatts at the number of revolutions per minute as stated in Box 4C(i), 4C(ii) and 4C(iii).

(v) Cargo Capacity – The Vessel's cargo capacity shall be the capacities stated in Box 4B1 and 4B2.

(vi) Other matters – The Vessel shall meet the technical requirements stated in Box 4E.

3. Classification, Rules and Regulations

(a) The hull, deck and superstructure shall be constructed in accordance with MSO approved drawings for an Interceptor 48 and shall meet the requirements of i) Irish Merchant Shipping Regulations (Passenger Boat) SI No. 273/2002 as amended for a class P5 vessel and ii) Lloyd's Register Classification of Special Service Craft for operational area G2A. The hull shall also be delivered in compliance with the applicable laws, rules, regulations and requirements of the Classification Society stated in Box 8. On completion a class society hull moulding certificate shall be provided .

The Vessel shall be designed, constructed, surveyed, tested and delivered in compliance with the applicable laws, rules, regulations and requirements of the ~~Classification Society stated in Box 8, and the~~ Regulatory Authorities for the construction and use of a P5 Vessel as per the Irish Merchant Shipping Regulations (Passenger Boat) SI No. 273/2002 as amended for a class P5 vessel::

(i) in force as of the date of this Contract stated in Box 1, or

(ii) if not in force as of the date of this Contract, which are ratified and promulgated on or before the date of this Contract and which will be compulsory for the Vessel on or before the delivery of the Vessel in accordance with Clause 28 (Delivery).

All such laws, rules, regulations and requirements of the Classification Society and the Regulatory Authorities shall be complied with without qualification (see Clause 26 (Changes in Rules and Regulations)).

(b) The final decisions of the Classification Society or Regulatory Authorities shall be binding on the Parties as to the Vessel's compliance with their respective applicable laws, rules, regulations and requirements.

(c) All costs, fees and charges incidental to and in respect of compliance with the applicable laws, rules, regulations and requirements of the Classification Society or Regulatory Authorities referred to above shall be for the Builder's cost and expense.

(d) The Builder must contact the MSO immediately after the Effective Date to apply for survey, and have a Surveyor appointed, and forward Scantling and Construction drawings to the MSO for approval, prior to work commencing on the hull. As part of the vessel Registration process, a Tonnage Measurement is also required from the MSO.

4. IMO Hazardous Materials Inventory

The Builder shall, in accordance with the IMO Guidelines on Ship Recycling, Resolution A.962 (23), with amendments in force as of the date of this Contract:

(a) Endeavour to take due account of the Vessel's ultimate disposal when designing and constructing the Vessel by:

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(i) using materials which can be recycled safely and in an environmentally sound manner; and

(ii) by minimising the use of materials known to be potentially hazardous to health and the environment.

(b) In consultation with equipment manufacturers provide the Buyer with a Green Passport Statement of Compliance issued by the Classification Society containing information including the Vessel's hull number and main particulars and listing any and all materials known to be potentially hazardous utilised in the construction of the Vessel, its equipment and systems.

The list of the materials known to be potentially hazardous shall contain the location and the approximate quantity/volume of each identified material on board the Vessel.

5. Protective Coatings

The Vessel's double-side skin spaces and dedicated seawater ballast tanks shall be coated in accordance with the Specification. In any event the minimum coating standard shall be in accordance with the requirements of the IMO Performance Standard for Protective Coatings for dedicated seawater ballast tanks in all types of ships and double-side skin spaces of bulk carriers (IMO PSPC, Resolution MSC. 215(82)) and, where applicable, in accordance with the IACS Common Structural Rules for Bulk Carriers and for Oil Tankers or subsequent modifications or replacement applicable in accordance with Clause 3(a) (Classification, Rules and Regulations).

6. Source of Origin

If so requested by the Buyer, the Builder shall identify the country of origin of all the main components listed in the Maker's List and Specification.

SECTION 2 – FINANCIAL

7. Contract Price

The Contract Price shall be the amount stated in Box 9(a) as may be adjusted in accordance with the terms of this Contract.

The Contract Price and any other payments to be made to the Builder pursuant to this Contract shall be paid in the currency stated in Box 9(b) and in accordance with the payment terms stated in Box 11 and Clause 15 (Payments).

8. Speed Deficiency

If the speed of the Vessel as stated in Box 4D(ii) is not achieved in the manner stated in the Specification or Clause 2(b)(i) the following shall apply:

(a) There shall be no adjustment of the Contract Price except to the extent provided in Sub-clause 8(b).

(b) If the reduction in speed is greater than 2/10ths of a knot, the Contract Price shall be reduced by the amount stated in Box 13(i) for each whole 1/10th of a knot reduction in speed in excess of 2/10ths of a knot as liquidated damages up to the maximum amount stated in Box 13(ii).

(c) If the reduction in speed would entitle the Buyer to a reduction in the Contract Price greater than the maximum amount stated in Box 13(ii), the Buyer shall have the option to terminate this Contract in accordance with Clause 39(a)(iv) (Suspension and Termination).

9. Excessive Fuel Consumption

If the fuel consumption of the Vessel's main engine on the test bed using the fuel specified in Box 4C(vii) exceeds the figure stated in Box 4C(iv) the following shall apply:

(a) There shall be no adjustment of the Contract Price except to the extent provided in Sub-clause 9(b).

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(b) If the excess fuel consumption is greater than 2% (two per cent) of the specified fuel consumption the Contract Price shall be reduced by the amount stated in Box 14(i) for each whole percentage in excess of 2% as liquidated damages up to a maximum amount as stated in Box 14(ii).

(c) If the excess fuel consumption would entitle the Buyer to a reduction in the Contract Price greater than the maximum amount stated in Box 14(ii), the Buyer shall have the option to:

(i) accept the main engine at a reduction in the Contract Price corresponding to the maximum amount stated in Box 14(ii); or

(ii) reject the main engine and either:

(1) require the Builder to rectify the deficiency and repeat the trial or replace the main engine with one that conforms to the requirements of the Contract. (The time taken to rectify the deficiency and repeat the trial or replace the main engine in accordance with this Sub-Clause shall not be a Permissible Delay); or

(2) terminate this Contract forthwith in accordance with Clause 39(a)(v) (Suspension and Termination).

10. Deadweight Deficiency

If the actual deadweight of the Vessel determined in accordance with the Specification is less than the deadweight stated in Box 4A(iii) the following shall apply:

(a) There shall be no adjustment of the Contract Price except to the extent provided in Sub-clause 10(b).

(b) If the reduction in deadweight is greater than the number of metric tonnes stated in Box 15(i) then for each whole metric tonne in excess of the figure in Box 15(i) below the deadweight stated in Box 4A(iii) the Contract Price shall be reduced by the amount stated in Box 15(ii) as liquidated damages up to a maximum amount as stated in Box 15(iii).

(c) If the reduction in deadweight would entitle the Buyer to a reduction in the Contract Price greater than the maximum amount stated in Box 15(iii) the Buyer shall have the option to terminate this Contract in accordance with Clause 39(a)(vi) (Suspension and Termination).

11. Cubic Capacity Deficiency

If the actual cubic capacity of the Vessel determined in accordance with the Specification is less than the cubic capacity specified in Box 4B1(i) the following shall apply:

(a) There shall be no adjustment of the Contract Price except to the extent provided in Sub-clause 11(b).

(b) If the reduction in cubic capacity is greater than the number of cubic metres stated in Box 16(i) then for each full cubic metre in excess of the figure in Box 16(i) below the cubic capacity stated in Box 4B1(i) the Contract Price shall be reduced by the amount stated in Box 16(ii) as liquidated damages up to a maximum amount as stated in Box 16(iii).

(c) If the reduction in cubic capacity would entitle the Buyer to a reduction in the Contract Price greater than the maximum amount stated in Box 16(iii) the Buyer shall have the option to terminate this Contract in accordance with Clause 39(a)(vii) (Suspension and Termination).

12. ~~Other Deficiencies (optional Clause)~~

~~NOTE: This Clause has been left blank intentionally to allow the parties to insert, where appropriate, a liquidated damages provision covering deficiencies in any special technical requirements for a particular vessel type and specified by the parties in Box 4E and Box 17. (See also Clause 39(a)(viii)).~~

13. Late Delivery for non-permissible delays

If delivery takes place more than 7~~30~~ days after the Delivery Date then for each day thereafter the Contract Price shall be reduced by the amount stated in Box 18 per day as liquidated damages up to a maximum delay of 60~~180~~ days ~~(comprising a 30 day grace period plus 150 days).~~

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If the delay exceeds60~~180~~ days the Buyer shall have the option to terminate this Contract in accordance with Clause 39(a)(iii) (Suspension and Termination).

14. Guarantees

~~(a) Buyer's Instalment/Performance Guarantee~~

~~To secure the Buyer's obligation to pay the instalments of the Contract Price prior to delivery the Buyer shall, within the number of days stated in Box 19(a)(i) after the signing of this Contract, deliver to the Builder an irrevocable and unconditional guarantee issued by the bank or party stated in Box 31 substantially in the form and substance set out in Annexes A(i) (Instalments) or A(ii) (Performance) as stated in Box 19(a)(ii), failing which the Builder shall have the option to terminate this Contract in accordance with Clause 39(b)(iv) (Suspension and Termination).~~

(b) Builder's Refund Guarantee

To secure the Builder's obligation to refund the Buyer's pre-delivery instalments pursuant to this Contract the Builder shall, within the number of days stated in Box 19(b)(i) after the signing of this Contract and before the date for payment of the first instalment in accordance with Clause 15(a)(i) (Payments – Instalments), provide the Buyer with a Refund Guarantee issued by the bank or party named in Box 32 substantially in the form and substance set out in Annex A(iii)(Refund Guarantee), failing which the Buyer shall have the option to terminate this Contract in accordance with Clause 39(a)(ix) (Suspension and Termination).

(c) Guarantee Compliance and Expiry

The Parties shall ensure that any guarantee issued on their behalf shall:

(i) comply with the laws, regulations, constitution and procedures of the guarantor and its country of issue, including but not limited to, its registration with any necessary authorities; and

(ii) on expiry be returned to the guarantor; and

(iii) in the case of the Refund Guarantee (sub-Clause 14(b)), remain in force until ~~either~~

(1) a date at least 300 days after the Contractual Date of Delivery stated in Box 10 or 30 days after the final resolution of any dispute under Clause 42 (Dispute Resolution), whichever is the later; or

~~(2) delivery of the Vessel to, and acceptance of the Vessel by, the Buyer whichever is the sooner.~~

15. Payments

(a) Instalments

The Contract Price shall be paid by the Buyer to the Builder by Instalments, when due and payable in accordance with Box 11 and this Clause, the pre-delivery Instalments being paid as advances and not deposits as follows:

(i) Unless otherwise stated in Box 11 the first Instalment shall be due and payable by the Buyer five (5) Banking Days after the Refund Guarantee has been provided in accordance with Clause 14(b) (Builder's Refund Guarantee).

(ii) The Builder shall give the Buyer invoices for each Instalment under this Contract. With the exception of the first and Final Instalment the Builder shall give the Buyer an invoice to cover the sum due to it not less than ten (10) Banking Days prior to the due date of each Instalment.

(iii) All Instalments other than the first and Final Instalment shall be payable within four (4) Banking Days of the due date thereof.

(iv) The Final Instalment shall be due and payable ~~upon delivery of the Vessel~~ in accordance with Box 11 and Clause 28 (Delivery).

(b) Payment for Modifications and other items

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(i) The sums due or refundable as a result of modifications and changes, and changes in Rules and Regulations under Clause 24 (Modifications and Changes) and Clause 26 (Changes in Rules and Regulations) shall be added to or deducted from the Final Instalment.

(ii) All expenses payable in accordance with Clause 27(c)(iii) (Conduct of the Sea Trials) and Clause 22(b) shall be paid together with the Final Instalment.

(iii) Sums due for other items shall be paid within fifteen (15) Banking Days after receipt by the Buyer of the Builder's invoice.

(c) Payment of Liquidated Damages

Any amounts for liquidated damages under Clause 8 (Speed Deficiency), Clause 9 (Excessive Fuel Consumption), Clause 10 (Deadweight Deficiency), ~~Clause 11 (Cubic Capacity Deficiency), Clause 12 (Other Deficiencies)~~ and Clause 13 (Late Delivery for non-permissible delays) shall be calculated and determined before delivery and may be deducted from the Final Instalment.

(d) Payment Procedures

(i) If the date on which any payment is due in accordance with the provisions of this Contract does not fall on a Banking Day, payment shall be made on the next Banking Day.

(ii) Payment of sums due in accordance with the provisions of this Contract shall be made, in the case of payments to the Builder, by electronic transfer to the Builder's account stipulated in Box 12 and, in the case of payments to the Buyer by electronic transfer to such bank as the Buyer by notice to the Builder nominates to receive payments on its behalf.

(iii) The cost of remitting payments shall be for the account of the payer.

(iv) Payments by either Party to the other under this Contract, and their receipt, shall not be deemed a waiver of any right or claim either Party may have against the other.

(v) In the event of late payment of Instalments by the Buyer, the Builder shall have the right to suspend work under this Contract in accordance with Clause 39(c) (Suspension of Work).

16. Taxes, duties, stamps, dues and fees

(a) The Builder shall bear and pay all taxes, duties, stamps, dues and fees imposed in the place stated in Box 2 in connection with the execution and/or performance of this Contract, excluding any taxes, duties, stamps, dues and fees imposed in the place stated in Box 2 upon the Buyer's Supplies which shall be for the Buyer's cost and expense.

(b) The Buyer shall bear and pay all taxes, duties, stamps, dues and fees imposed outside the place stated in Box 2 in connection with the execution and/or performance of this Contract, except for taxes, duties, stamps, dues and fees imposed upon those items and services procured by the Builder for construction of the Vessel.

(c) If either Party pays any taxes, duties, stamps, dues and fees for which the other Party is responsible under this Clause, the other Party shall reimburse the paying Party within fifteen (15) Banking Days of receipt of notice to that effect, together with evidence of the amount paid.

17. Right to set-off

The Buyer shall not have the right to retain or set-off any amount against any payment due to the Builder under this Contract except in relation to the Final Instalment as specifically provided in this Contract (see Clause 15 (Payments) and Clause 30 (Final Instalment)).

18. Interest

If either Party fails to pay any sum due in accordance with the terms of this Contract, the other Party shall have the right to charge interest from the due date at the rate stated in Box 30 on such outstanding sums (see also Clause 39 (Suspension and Termination)).

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PART II

SECTION 3 – PRODUCTION

19. Sub-contracting

The Builder shall employ the Sub-contractors as set out in the Specification or Maker's list. Except for minor work, the Builder shall not employ other sub-contractors without the Buyer's approval, which shall not be unreasonably withheld.

Notwithstanding any sub-contracting, the Builder shall remain fully responsible for the due performance of such work as if undertaken by the Builder at the Shipyard.

20. Approvals

The times and numbers specified in this Clause shall apply unless otherwise stated in the Specification.

(a) As soon as possible and not later than sixty (60) running days after the effective date of the Contract (see Clause 44 (Effective date of Contract)) the Builder shall provide the Buyer with proposed detailed building and testing schedules (trials programme) . The Buyer shall comment on the schedules as soon as possible and at the latest within fourteen (14) running days after receipt of the proposals. The Builder shall thereafter prepare and issue in writing amended building and testing schedules incorporating the Buyer's comments within fourteen (14) running days thereafter.

(b) The Builder shall despatch to the Buyer a total of three (3) full sets (two hard copies and one digital copy) of the Plans and Drawings for the Buyer's approval and shall also submit such other technical information as the Buyer may reasonably require, not less than fourteen ~~thirty~~ (14~~30~~) running days before any construction works commence. The Builder shall give notice to the Buyer advising the date of despatch of the Plans and Drawings and the Buyer shall give notice to the Builder confirming receipt thereof. The Buyer shall within fourteen (14) running days of receipt send to the Builder one (1) set of the Plans and Drawings with the Buyer's approval or approval with comments, amendments or reservations.

In the event that the Buyer needs additional time to consider the Plans and Drawings submitted pursuant to this Clause, it shall request the same in writing of the Builder whose agreement shall not be unreasonably withheld. In the event that the Buyer's comments, amendments or reservations are unclear, unspecified or illegible, the Builder may give notice requesting clarification. If the Buyer fails to respond to the request to provide clarification within five (5) running days of receipt of the Builder's notice, the Builder shall determine whether and to what extent it can adopt the comments, amendments or reservations.

If requested by the Buyer in writing, the Plans and Drawings shall also be sent in an agreed electronic format.

(c) The Builder shall take due note of the Buyer's comments, amendments or reservations (if any) on Plans and Drawings submitted pursuant to this Clause and, if such comments, amendments or reservations are not of such a nature or extent as to constitute a modification or change of the Specification within the meaning of Clause 24 (Modifications and Changes), then the Builder shall commence or continue construction of the Vessel in accordance with the corrected or amended Plans and Drawings.

(d) If the Builder considers the comments, amendments or reservations to the Plans and Drawings are of a nature or extent that constitutes a modification or change under Clause 24 (Modifications and Changes), the Builder shall notify the Buyer accordingly and proceed in accordance with Clause 24 (Modifications and Changes). If the Buyer disagrees the matter shall be resolved in accordance with Clause 24(e).

(e) In the event that the Buyer fails to return any Plans and Drawings to the Builder with approval or approval with comments, amendments or reservations, if any, within the time limit stated above, such Plans and Drawings shall be deemed to have been approved by the Buyer.

(f) The Buyer's approval or deemed approval of any Plans and Drawings shall not affect the obligations of the Builder to design, construct and deliver, or the obligations of the Buyer to take delivery of, and pay for, the Vessel in accordance with the other provisions of this Contract; nor shall it diminish the Builder's responsibility in respect of ts

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obligations under this Contract nor shall it constitute any acceptance by the Buyer of any responsibility for any defect in the Vessel.

(g) The Builder shall give the Buyer, as soon as practicable, copies of all relevant correspondence relating to the Vessel to and from the Classification Society and the Regulatory Authorities, together with all plans approved by the Classification Society.

21. Buyer's Supplies

(a) Buyer

(i) The Buyer shall, at its own risk, cost and expense, supply and deliver to the Builder all of the Buyer's Supplies. Such items shall be delivered at a warehouse or other storage facility at the Shipyard or as otherwise directed by the Builder in a proper condition ready for installation by the Builder or Sub-contractor in or on the Vessel (hereinafter "Installation"), in accordance with the building and testing schedules in Clause 20(a) (Approvals) or as may reasonably be required by the Builder.

(ii) To assist Installation, the Buyer shall provide the Builder with the necessary documentation including specifications, plans, drawings, instruction books, manuals, test reports and certificates required to comply with all applicable rules and regulations. If so requested by the Builder, the Buyer shall, if reasonably possible and at no cost to the Builder, arrange for the representatives of the manufacturers of the Buyer's Supplies to assist the Builder in Installation and/or to carry out the Installation of the Buyer's Supplies by themselves or to make necessary adjustments at the Shipyard in accordance with the manufacturer's instructions, including commissioning.

(iii) The Builder may reject any and all of the Buyer's Supplies when and if found on reasonable grounds to be unsuitable or in improper condition for Installation or not in compliance with the Classification Society or Regulatory Authorities' requirements.

(iv) If delay in delivery of any of the Buyer's Supplies in accordance with Sub-Clause (a)(i) exceeds thirty (30) days and will cause actual delay to the delivery of the Vessel, the Builder shall have the right to proceed with the construction of the Vessel without Installation of the delayed items. The Buyer shall accept and take delivery of the Vessel so constructed.

(b) Builder

(i) The Builder shall safely store and handle the Buyer's Supplies after delivery thereof at a warehouse or other storage facility at the Shipyard or elsewhere as determined by the Builder and shall, at its own cost, expense and responsibility, install them in or on the Vessel in accordance with the Specification, provided that the Builder shall not be responsible for the quality, efficiency and/or performance of any of the Buyer's Supplies.

(ii) The Buyer's Supplies shall be at all times the property of the Buyer but shall be at the Builder's risk from the time of their delivery to the Shipyard until the time of their redelivery to the Buyer whether or not as part of the Vessel.

22, Buyer's Representative, Assistants, Officers and Crew

(a) The Buyer may, at its own cost and expense, have one representative present at the Shipyard throughout the construction together with a reasonable number of assistants and, as appropriate, officers and crew. The Buyer shall notify the Builder in advance in writing of:

(i) the names of the Buyer's Representative, assistants and, as appropriate, officers and crew; and

(ii) the scope of the Buyer's Representative's authority which, in particular, shall include the extent to which the Buyer's Representative has authority to approve plans, drawings and calculations, agree modifications and invoices and attendance at and approval of tests, trials and inspections relating to the Vessel at the Shipyard and/or premises of Sub-contractors; and

(iii) any other information reasonably required by the Builder to facilitate access to the Shipyard and/or premises of Sub-contractors.

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(b) The Builder shall, at its own cost and expense, provide the Buyer's Representative and assistants with reasonable office accommodation and facilities (including communication equipment, such as telephone, fax and appropriate internet access, and printers or a connection to the Builder's printers) as the Buyer may reasonably require. The Buyer shall bear the costs of all communication expenses arising from the use by the Buyer's Representative and assistants of the communications equipment provided by the Builder. Such expenses shall be payable by the Buyer on receipt of an invoice from the Builder in accordance with Clause 15(b) (Payments - Payment for Modifications and other items).

(c) The Builder shall have the right to request the Buyer to replace the Buyer's Representative or any assistants but only if the Builder shows that they are carrying out their duties in an unreasonable manner detrimental to the proper progress of the construction of the Vessel, in which case the Buyer shall make proper replacement as soon as possible.

(d) The Buyer's Representative shall have the right to communicate directly with the Classification Society, provided such communication does not unreasonably interfere with the Builder's communication with the Classification Society.

(e) The Builder shall render reasonable assistance to the Buyer in helping to provide suitable accommodation, obtain necessary visas, residence and work permits and any other administrative assistance as the case may be for the Buyer's Representative, assistants and, as appropriate, officers and crew.

23. Inspections, Tests and Trials

(a) To enable the Buyer's Representative and assistants to carry out their duties and inspect the work being done, the Buyer's Representative and/or assistants shall have the right to inspect the Vessel throughout the period of the construction of the Vessel and until its delivery and acceptance.

(b) The Buyer's Representative and/or assistants shall have the right to attend all tests, trials and inspections, including those supervised by the Classification Society and Regulatory Authorities, on any parts of the Vessel whether or not installed. The Builder shall give the Buyer reasonable notice in advance of all such tests, trials and inspections to enable the Buyer's Representative and/or assistants to attend. If the Buyer's Representative and/or assistants becomes aware of non-conformity of any aspect of the design, construction, material or workmanship arising out of such tests, trials and inspections he/they shall notify the Builder as soon as possible.

(c) For the purposes of attending such inspections, tests and trials the Builder shall, at any time during working hours or at any other time when work is being performed, provide the Buyer's Representative and/or assistants with unimpeded access to the Shipyard, Vessel, workshops, and anywhere else where work on or storage of items connected with the construction of the Vessel is being performed. The Builder shall use its best efforts to arrange similar access for inspection purposes to Sub-contractors' premises during working hours or at any time when work is being performed.

(d) Neither the Buyer's Representative's and/or assistants' inspection and/or attendance at any inspection, test or trial, nor the Buyer's Representative's and/or assistants' failure to notify the Builder of any non-conformity shall relieve the Builder from its obligations under this Contract or be deemed to be or construed as a waiver of any objection to, or any acceptance of, faulty design, construction, material and/or workmanship, or any admission that any materials or workmanship are of the standard required for due performance of this Contract.

24. Modifications and Changes

(a) The Buyer shall have the right at any time to request reasonable modifications or changes in the Specification and/or Plans and Drawings. The Buyer shall request such modifications and/or changes in writing, giving sufficient particulars, documentation and details fully to describe the modifications and/or changes requested.

(b) The Builder shall, as soon as possible after receipt of the written request for modifications or changes, give the Buyer a written proposal of the consequences of implementing such modifications and/or changes. These consequences may include changes in the Contract Price, Delivery Date, capacity, draft, speed, fuel consumption, or any other provisions of this Contract. If in the Builder's reasonable judgement, such modifications and/or changes will

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adversely affect the Builder's planning or programme in relation to the Builder's other commitments, the Builder shall notify the Buyer that it declines to give such a proposal for the requested modifications and/or changes or part thereof.

(c) The Builder shall use reasonable efforts to minimise the extra costs, delay or other negative impact on the Vessel's capacity, performance or other factors caused by the Buyer's request. The Builder's proposal shall be reasonable for such work.

(d) On the basis of the Builder's proposal the Buyer may elect in writing to agree to the necessary amendments to this Contract, in which case the Builder shall build the Vessel in accordance with this Contract so amended.

(e) If the Buyer does not accept the Builder's notice as provided in Clause 20(d) (Approvals) or if in the Buyer's opinion the Builder's proposal for modifications and/or changes under this Clause is unreasonable, the Buyer may, by giving notice to the Builder, order the Builder to proceed with the requested modifications and/or changes but the consequences of implementing such modifications and/or changes shall be decided in accordance with Clause 42 (Dispute Resolution).

(f) If the Buyer elects not to continue with the request for modifications and/or changes, the Buyer shall notify the Builder accordingly.

(g) If the Buyer does not respond within seven (7) running days after receipt of the Builder's notice in Sub-Clause (b), the Buyer shall be deemed to have withdrawn the request for modifications and/or changes.

25. Builder's Modifications and Substitution of Materials

The Builder shall have the right to make minor modifications and/or changes to the Specification and/or plans if so required by virtue of changes to the Builder's local conditions or facilities, the availability of materials and equipment, the introduction of improved methods or for any other reason of a similar nature provided that the Builder shall first obtain the Buyer's written approval, which shall not be unreasonably withheld or delayed.

Such modifications and/or changes shall satisfy the requirements of the Classification Society and the Regulatory Authorities and shall not relieve the Builder from its obligation to otherwise deliver the Vessel in accordance with this Contract. Any savings obtained shall be credited to the Buyer and the Buyer shall not be obliged to pay any extra for, or suffer any delay in delivery or other adverse consequences of, such modifications and/or changes.

26. Changes in Rules and Regulations

If, after the date of Contract, there are any changes in applicable laws, rules, regulations or requirements (or their application) of the Classification Society or Regulatory Authorities, the following shall apply:

(a) Upon receipt of notice of such changes either Party shall promptly notify the other Party thereof.

(b) If such changes will be compulsory for the Vessel at the time of delivery, the Builder shall, unless the Buyer at its sole discretion seeks and obtains a waiver from the Classification Society or Regulatory Authorities (as appropriate), incorporate such modifications and/or changes into the construction of the Vessel. The Parties shall endeavour to agree on such adjustments to the Contract Price, Delivery Date or other Contract terms as are a direct consequence of the change in applicable laws, rules, regulations or requirements. If the Parties fail to agree on the adjustments, the Builder shall proceed with the required changes and the matter shall be decided in accordance with Clause 42 (Dispute Resolution).

(c) If such changes are not compulsory but the Buyer requires the changes to be incorporated, Clause 24 (Modifications and Changes) shall apply.

27. Sea Trials

The times and numbers specified in this Clause shall apply unless otherwise stated in the Specification.

(a) Notice

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The Buyer's Representative, together with a suitable number of assistants, officers and crew, shall have the right to be present at sea trials. The Builder shall give the Buyer at least fourteen (14) running days' notice of the time and place and expected duration of sea trials and the Buyer shall promptly acknowledge receipt of such notice.

If neither the Buyer's Representative nor any authorised assistants attend the sea trials for any reason after such notice to the Buyer, such absence shall be deemed to be a waiver by the Buyer of its right to be present. The Builder may then conduct the sea trials without the Buyer's Representative being on board, provided that a representative of the Classification Society and Regulatory Authorities is present. In such circumstances, the results and conditions of the sea trials shall be as confirmed in writing by the Classification Society and/or Regulatory Authorities.

(b) Weather Conditions

The sea trials shall be conducted in weather conditions as described in this Contract and/or Specification. If the sea trials are interrupted or prevented by weather conditions in excess of the stated conditions, any resulting delay in delivery of the Vessel shall be deemed a Permissible Delay in accordance with Clause 34 (Permissible Delays). In such an event, the sea trials shall be discontinued or postponed until the first favourable day thereafter when weather conditions permit.

(c) Conduct of the Sea Trials

(i) The sea trials shall be conducted in the presence of representatives from the Classification Society and Regulatory Authorities and in the manner described in this Contract. The sea trials shall be of sufficient scope and duration to enable the Parties to verify and establish that the Vessel conforms in all respects with the performance requirements of this Contract. The Builder shall have the right to repeat any sea trials, subject to appropriate notice to the Buyer.

(ii) The Builder shall provide sufficient crew necessary for the safe navigation of the Vessel.

(iii) All expenses in connection with the sea trials, including the provision of bunkers, lubricating oil, grease, fresh water and stores needed to undertake the sea trials shall be for the Builder's cost and expense. Together with the Final Instalment, the Buyer shall reimburse the Builder at cost price for any quantities of bunkers and unbroached lubricating oil, grease, fresh water and stores remaining on board at delivery.

(d) Method of Acceptance or Rejection

(i) Upon completion of the sea trials the Builder shall give the Buyer the results of the sea trials in writing. If the Builder considers that the results thereof demonstrate that the Vessel conforms to the requirements of this Contract, the Builder shall give the Buyer notice of when delivery will take place. Such notice shall state where and when the Vessel will be ready for delivery, which will be at least fifteen (15) running days after the notice is given. Within five (5) running days after receipt of this notice and the trial results, the Buyer shall notify the Builder in writing of its acceptance for delivery or rejection of the Vessel.

(ii) If the results of the sea trials demonstrate that the Vessel or any part or equipment thereof does not conform to the requirements of this Contract, or if the Buyer rejects the Vessel for other reasons which the Builder accepts as valid, the Builder shall take all necessary steps to rectify such non-conformity. If necessary the Builder shall for its own cost and expense carry out a further sea trial in accordance with this Clause to ascertain that the Vessel complies with the terms of this Contract. Upon demonstration by the Builder that the deficiencies have been corrected, the procedure set out in this Sub-Clause (d) shall apply.

(iii) If the Buyer gives notice of rejection under (i) above or rejects the Vessel under (ii) above, the Buyer shall state in which respects the Vessel does not conform to the requirements of this Contract (hereinafter "Delivery Defects").

(iv) If the Delivery Defects are of minor importance and do not affect Class or the operation of the Vessel in its intended trade but the Builder is unable to rectify the matter within a reasonable time and in any event before the accrual of the Buyer's right to terminate in accordance with Clause 39 (Suspension and Termination), the Builder may nevertheless require the Buyer to take delivery of the Vessel, on condition that the Builder first:

(1) undertakes to remedy the Delivery Defects for its own cost and expense as soon as possible; and

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(2) agrees in writing to indemnify the Buyer for any loss incurred as a consequence thereof, including loss of time; and

(3) provides the Buyer with a guarantee issued by the party named in Box 32 (or if Box 32 is not filled in, a bank guarantee from a first class bank) substantially in the form and substance set out in Annex A(iv) for a sum which the Buyer reasonably requests to cover (1) and (2) above, failing agreement such sum to be resolved in accordance with Clause 42 (Dispute Resolution);

whereupon the Buyer shall accept delivery of the Vessel.

(v) If the Builder disputes the rejection of the Vessel by the Buyer, the dispute shall be resolved in accordance with Clause 42 (Dispute Resolution).

SECTION 4 – DELIVERY

28. Delivery

Subject to Clause 27(d) (Sea Trials – Method of Acceptance or Rejection) the Vessel shall be delivered to the Buyer on or after the Delivery Date at the Port of Waterford ~~Shipyard~~ or at a safe place in the immediate vicinity thereof in a clean and orderly condition, ready for service, upon:

(a) exchange and acceptance by the Parties hereto of a Protocol of Delivery and Acceptance signed by each Party acknowledging delivery of the Vessel by the Builder and acceptance thereof by the Buyer; and

(b) the provision by the Builder of the other documents listed in Clause 29 (Documents on delivery); and

(c) payment by the Buyer of the Final Instalment in accordance with Box 11 and Clause 30 (Final Instalment).

29. Documents on Delivery

Upon exchange of the Protocols of Delivery and Acceptance the Builder shall provide at no cost to the Buyer the following additional documents:

(a) Protocol of Trials made pursuant to the Specification.

(b) Protocol of Inventory and Equipment of the Vessel, including spare parts, as detailed in the Specification.

(c) Protocol of Surplus Consumable Stores which are payable by the Buyer to the Builder.

(d) Three Copies (2 hard copies and one digital copy) of Plans and Drawings pertaining to the Vessel together with all necessary instruction manuals, as detailed in the Specification.

(e) All certificates including the documents required to be furnished on delivery pursuant to this Contract. All certificates shall be issued without qualification.

If, however, the Classification certificate and/or other required certificates are not available at the time of delivery, the Buyer shall accept interim certificates provided that the Builder, at its cost and expense, provides the Buyer with final certificates as promptly as possible.

The Builder warrants that:

(i) such interim certificates shall enable the Vessel to be registered and trade and operate without restriction; and

(ii) final certificates shall be provided as above.

If the Builder fails to perform (i) and/or (ii) above, the Builder shall compensate the Buyer for any loss incurred as a consequence thereof, including loss of time.

(f) Declaration of Warranty by the Builder that the Vessel is free and clear of any liens, claims, charges, mortgages and other encumbrances.

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(g) Builder's Certificate.

(h) Certificate of Non-Registration.

(i) Commercial invoices covering Final Instalment and modifications.

(j) Bill of Sale or other document that certifies that the title of the Vessel passes to the Buyer.

(k) IMO Hazardous Material Inventory Statement of Compliance in accordance with IMO Resolution A.962(23) (as referred to in Clause 4 (IMO Hazardous Materials Inventory)).

(l) Any other documents reasonably required by the Buyer .including but not limited to two hard copies and one digital copy of Instructions and Manuals.

(m) Class Society Hull Moulding Certificate

The Buyer may require the Builder by giving reasonable notice, prior to delivery, to arrange for any documents listed above to be duly notarised and, if required, legalised at the Buyer's cost and expense.

30. Final Instalment

(a) The Final Instalment shall be adjusted in accordance with this Contract and notified by the Builder to the Buyer not later than seven (7) Banking Days prior to the notified date of delivery (see Clause 27(d) (Sea Trials – Method of Acceptance or Rejection)). Not later than two (2) Banking Days prior to the notified date of delivery the amount of the Final Instalment, as adjusted, shall be deposited with the Builder's Bank as set out in Box 12, with irrevocable instructions that, subject to Sub-Clause (c) below, the amount shall be released to the Builder against presentation by the Builder of a copy of the Protocol of Delivery and Acceptance of the Vessel signed by the Builder and the Buyer. Interest, if any, accruing on such deposit shall be for the benefit of the Buyer.

(b) If the Buyer does not agree the amount of the Final Instalment as adjusted and notified by the Builder, the Buyer shall notify the Builder within five (5) running days. Thereafter the Buyer may take delivery of the Vessel on payment of the Final Instalment as adjusted (or such other amount as the Builder may agree) but without prejudice to the Buyer's rights and remedies under this Contract and the dispute shall be resolved in accordance with Clause 42 (Dispute Resolution).

(c) If the Protocol of Delivery and Acceptance is not so presented within seven (7) days following the date for delivery of the Vessel as notified by the Builder in accordance with Clause 27(d) (Sea Trials – Method of Acceptance or Rejection), the Buyer shall have the right to withdraw the said deposit plus accrued interest. However, if and when a new date for delivery of the Vessel is notified to the Buyer by the Builder in accordance with Clause 27(d) (Sea Trials – Method of Acceptance or Rejection), the Buyer shall make a further cash deposit for the Final Instalment in accordance with the same terms and conditions as set out above.

31. Title and Risk

Title and risk of loss of or damage to the Vessel shall rest with the Builder until exchange of the Protocol of Delivery and Acceptance is effected, immediately upon which title and risk shall pass to the Buyer.

At the time of delivery the Vessel shall be free of all liens, claims, charges, mortgages and other encumbrances.

32. Possession and Removal of the Vessel

(a) The Buyer shall take physical possession of the Vessel immediately upon Delivery and Acceptance thereof.

(b) ~~The Buyer shall remove the Vessel from the place of delivery within five (5) running days after Delivery and Acceptance as aforesaid. If the Buyer does not so remove the Vessel within the said period, the Buyer shall pay to the Builder reasonable mooring charges for the Vessel. The Builder shall also have the right to move the Vessel from the place of delivery to another safe place at its convenience at any time after the five (5) running days' period has expired provided the Buyer is notified accordingly.~~

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PART II

33. Vessel Registration

The Buyer shall register the Vessel at its own cost and expense.

SECTION 5 – LEGAL

34. Permissible Delays

(a) The Delivery Date shall be extended if any of the following events cause actual delay to the delivery of the Vessel:

(i) Force majeure events

(1) acts of God;

(2) any government requisition, control, intervention, requirement or interference;

(3) threat or act of war, warlike operations, terrorism or the consequences thereof;

(4) riots, civil commotions, blockades or embargoes;

(5) epidemics;

(6) earthquakes, landslides, floods, tidal waves or extraordinary weather conditions;

(7) strikes, lockouts or other industrial action, but only if of a general nature and not limited solely to the Builder and/or the Sub-contractors or their employees;

(8) fire, accident, explosion (whether in the Shipyard or elsewhere);

(9) any interruption to the supply of public utilities to the Builder;

(10) any other cause of a similar nature to the above beyond the control of the Builder or its Sub-contractors;

(11) delays to sea trials in accordance with Clause 27(b) (Sea Trials – Weather Conditions).

(ii) Other events

(1) Late delivery of, or delivery of, any defective Buyer's Supplies in accordance with Clause 21(a)(iv) (Buyer's Supplies);

(2) Delays due to modifications and changes in accordance with Clause 24(b) or (e) (Modifications and Changes);

(3) Delays due to changes in rules and regulations in accordance with Clause 26 (Changes in Rules and Regulations);

(4) An actual or constructive total loss in accordance with Clause 38(b)(ii) (Insurances – Allocation of Insurance Proceeds);

(5) Suspension of work pursuant to Clause 39(c) (Suspension and Termination – Suspension of Work);

(iii) Provided that in respect of (i) and (ii) above:

(1) such events were not caused by the error, neglect, act or omission of the Builder or its Sub-contractors; and

(2) were not, or could not reasonably have been, foreseen by the Builder at the date of the Contract; and

(3) the Builder shall have complied with Sub-Clause (b) hereunder; and

(4) the Builder shall have made all reasonable efforts to avoid and minimise the effects such events have on the delivery of the Vessel.

(b) The Builder shall notify the Buyer within ten (10) running days of when the Builder becomes aware of the occurrence of any event of delay on account of which the Builder asserts that it may have the right to claim an extension of the Delivery Date. A failure to so notify shall bar the Builder from claiming an extension to the Delivery Date. The Builder shall also advise the Buyer in writing (A) within two (2) running days of the ending of any event notified under this

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Clause that the event has ended, and (B) as soon as reasonably possible after (A), the length of extension of the Delivery Date claimed by the Builder.

35. Builder's Guarantee

(a) The Builder shall guarantee the Vessel against any Defects (see Definitions) provided such Defects are:

(i) discovered within the number of months stated in Box 20 (hereinafter "the Guarantee Period") after delivery of the Vessel in accordance with Clause 28 (Delivery); and

(ii) notice thereof is given to the Builder as soon as reasonably possible after the discovery thereof and latest thirty (30) running days after the expiry of the Guarantee Period describing such Defects so far as reasonably practical

(hereinafter called "Guarantee Defects")

(b) The Builder shall make any necessary repairs or replacements to rectify any Guarantee Defects or damage to the Vessel caused as a direct and immediate consequence of such Guarantee Defects. Such repairs and replacements shall be made at the Shipyard at the Builder's cost and expense.

(c) The Buyer shall have the right to arrange for the necessary repairs to rectify any Guarantee Defects or damage to the Vessel caused as a direct and immediate consequence of such Guarantee Defects to be made elsewhere or obtain any necessary replacement parts and materials:

(i) if it is impractical to bring the Vessel to the Shipyard; or

(ii) if the Builder cannot supply necessary replacement parts and materials without impairing or delaying the operation or working of the Vessel.

(d) In the event that the Buyer makes the necessary repairs or replacements at any other shipyard or works other than the Shipyard, the Buyer shall first, but as soon as possible, give the Builder notice of the time and place such repairs will be made. The Builder shall have the right, without prejudice, to inspect through its own representative the nature and extent of the Guarantee Defects to be replaced or repaired. The Builder shall, in such case, promptly advise the Buyer in writing, after such examination has been completed, of its acceptance or rejection of such Guarantee Defects as ones that are covered by the guarantee.

(i) The Builder shall pay the Buyer in the currency stated in Box 9 the reasonable cost and expenses of such repairs or replacements.

(ii) Where applicable, the Buyer shall return replaced parts to the Builder at the Builder's request and cost and expense provided the Builder makes such request at the time of the replacement. In the event that they are the subject of a dispute under Clause 42 (Dispute Resolution), the Builder shall hold the replaced parts available for inspection by the Buyer. Upon their replacement, the ownership of replaced parts shall revert to the Builder.

~~(e) The Builder guarantees repairs or replacements to the Vessel made under sub-Clause (b) above for an additional Guarantee Period of the number of months stated in Box 21 from the date of completion of such repairs or replacements provided such work has been performed by the Builder or its Sub-contractors. The additional Guarantee Period shall, however, not end on a date earlier than the end of the original Guarantee Period for any such item.~~

(f) If, as a result of the guarantee works, the Vessel has been lying idle continuously for a period in excess of thirty (30) days, the Guarantee Period shall be extended by the total number of such days (counting from the first day the Vessel is idle) that fall within the Guarantee Period, whether or not other work was carried out during such period.

(g) Without prejudice to any other rights the Buyer may have under this Contract, following the expiry of the Guarantee Period or in the event that the Builder is in breach of its obligation to rectify Guarantee Defects in accordance with this Clause, the Builder shall at the Buyer's request assign (to the extent to which it may validly do so) to the Buyer, or as the Buyer may direct, the right, title and interest of the Builder in and to all guarantees or warranties given by the Sub-contractors or suppliers of any of the materials or equipment used in the construction of the Vessel.

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PART II

36. ~~Guarantee Engineer~~

~~(a) The Buyer shall have the right to require the Builder to, or the Builder may, appoint a Guarantee Engineer to attend onboard the Vessel for such portion of the Guarantee Period as the Buyer may reasonably require. The Buyer and its employees shall provide the Guarantee Engineer with full co-operation in carrying out his duties. The Guarantee Engineer shall act as the Builder's representative on board and shall give the Buyer full co-operation to enable the Buyer to obtain the most efficient use of the Vessel's machinery and equipment.~~

~~(b) The Buyer shall provide the Guarantee Engineer with accommodation and provisions to a standard comparable to the Vessel's Chief Engineer, at no cost to the Builder. The Buyer shall pay the Builder the monthly lump sum stated in Box 24, or pro rata thereof for part of a month, as compensation for part of the cost and charges to be borne by the uilder in connection with the Guarantee Engineer. The Buyer shall also arrange and pay for the transportation of the Guarantee Engineer between the Vessel and his home country.~~

~~(c) The Guarantee Engineer shall, at all times and in all respects, be deemed to be the employee of the Builder.~~

~~(d) If the Buyer decides not to exercise its right to require the Builder to provide a Guarantee Engineer on board the Vessel, this shall not prejudice the Buyer's rights under the provisions of Clause 35 (Builder's Guarantee).~~

37. Responsibilities and exclusions from liabilities

Builder's exclusion Clauses

(a) Liability for Defects discovered before or at the time of delivery

The Buyer's remedy for delay in delivery of the Vessel, or for Defects discovered before or at the time of such delivery, are set out in Clauses 8 to 13 inclusive and Clause 27(d) (Sea Trials – Method of Acceptance or Rejection).

(b) Liability for Defects discovered after delivery

Except to the extent expressly provided in Clause 35 (Builder's Guarantee), the Builder shall have no liability in contract, tort (including negligence), breach of statutory duty or otherwise for:

(i) any Defect discovered after delivery of the Vessel; or

(ii) any loss, damage or expenses caused as a consequence of such Defect (which shall include, but not be limited to, loss of time, loss of profit or earnings or demurrage directly or indirectly incurred by the Buyer).

(c) Liability for third party replacement or repair

The Builder shall not be responsible for any Defects in any part of the Vessel which may, subsequent to delivery of the Vessel, have been replaced or in any way repaired by any contractor, other than the Builder or its Sub-contractors, or for any such Defects which have been caused in whole or part by omission or improper use or maintenance of the Vessel on the part of the Buyer or by ordinary wear and tear.

(d) Implied terms

The guarantee contained in Clause 35 (Builder's Guarantee) replaces and excludes any other liability, guarantee, warranty and/or condition and/or innominate term imposed or implied by the law, customary, statutory or otherwise, by reason of the construction and sale of the Vessel by the Builder for and to the Buyer.

Mutual exclusion Clauses

(e) Liability following termination

In the event of termination in accordance with the provisions of Clause 39 (Suspension and Termination), neither Party shall have any liability to the other whatsoever or howsoever arising, except as expressly provided in that Clause.

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In the event, however, that a Party fails to perform the Contract, or unequivocally indicates its intention not to perform it, in a way which thereby permits the other Party to treat the Contract as at an end other than under the terms of the Contract, any such claim that the other party may have shall not be limited or excluded by the terms of this Contract.

Responsibility Clauses

(f) Responsibility for death and personal injury

Each Party to this Contract shall accept responsibility and liability for the death and personal injury of its Personnel, unless the death or personal injury was inflicted by the other Party or its Sub-contractors with the intent to cause such death or injury, or recklessly and with knowledge that such death or injury would probably result.

Each Party further agrees to indemnify and hold harmless the other Party, as regards both liability and legal costs, in the event of claims relating to or resulting from death or personal injury of its Personnel against the Party who is not responsible for them under this Sub-Clause 37(f).

(g) Responsibility for damage to or loss of property

Unless otherwise provided in this Contract, each Party shall accept responsibility and liability for damage to or loss of its property and the property belonging to its Personnel unless such damage or loss was caused by the other Party or its Sub-contractors with the intent to cause such damage or loss, or recklessly and with knowledge that such damage or loss would probably result.

Each Party further agrees to indemnify and hold harmless the other Party, as regards both liability and legal costs, in the event of claims relating to or resulting from damage to or loss of property against the Party who is not responsible for them under this Sub-Clause 37(g).

38. Insurances

(a) Builder's Insurances

From the time of first steel cutting or equivalent (or delivery of the Buyer's Supplies, whichever is earlier) until the Vessel is completed, delivered to and accepted by the Buyer, the Builder shall (in the joint names (as assureds) of the Builder and the Buyer) effect and maintain at no cost to the Buyer, Builder's Risk Insurance for the Vessel and Buyer's Supplies. Such Builder's Risk Insurance shall:

(i) be provided by insurers reasonably acceptable to the Buyer; and

(ii) be on terms no less wide than Institute Clauses for Builder's Risk terms (1/6/88) including Institute War and Institute Strike Clauses ; and

(iii) be in an amount not less than the aggregate of the payments made by the Buyer to the Builder plus the value of the Buyer's Supplies at the Shipyard.

If specifically requested by the Buyer, the Builder shall increase the amount insured under the policy to cover the rebuilding costs of the Vessel or such other amount as the Buyer may request. Any additional premium charged for this shall be paid by the Buyer.

The Builder shall provide the Buyer with copies of the insurance policy as placed.

The Buyer shall notify the Builder of the value of any subsequent changes in the value of the Buyer's Supplies for insurance purposes. Upon receipt of notice of change in value the Builder shall amend the insured value for the Buyer's Supplies accordingly.

(b) Allocation of Insurance Proceeds

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(i) In the event that the Vessel is at any time prior to or at delivery damaged by any insured cause and provided such damage does not constitute an actual or constructive total loss of the Vessel, the Builder shall make good such damage and shall apply any amounts recovered under the insurance referred to in Sub-Clause (a) to the costs of any repair or replacement, including repair or replacement of lost or damaged Buyer's Supplies. Such damage shall be made good so as to comply with this Contract and all repairs shall be carried out in compliance with the requirements of the Classification Society and Regulatory Authorities as appropriate without qualification.

(ii) Should the Vessel become an actual or constructive total loss from any insured cause:

(1) the Builder and the Buyer may agree that a new vessel is built or the Vessel reconstructed in accordance with the terms of this Contract provided agreement is reached in writing to an extension of the Delivery Date and/or any other necessary amendment to the Contract, in which case any amounts recovered under the insurance referred to in Sub-Clause (a) will be applied to the construction or reconstruction of the Vessel if appropriate; or

(2) If the Builder and Buyer are unable to agree within a reasonable time on an extension to the Delivery Date and/or any other necessary amendment to the Contract as provided for in Sub-Clause (b)(ii)(1) the Builder shall:

(i) promptly refund to the Buyer the full amount of sums paid by the Buyer to the Builder together with interest thereon at a rate per annum as stated in Box 30 from the date of payment to the date of refund; and

(ii) make payment to the Buyer of the insured value of the Buyer's Supplies or alternatively, at the Builder's cost, deliver the Buyer's Supplies to the Buyer in undamaged condition.

Once all payments have been made by the Builder to the Buyer in accordance with Sub-Clause (b)(ii)(2) this Contract shall be deemed terminated and all future rights and obligations of each of the Parties to the other shall cease whereupon the guarantees provided under this Contract shall be returned.

39. Suspension and Termination

(a) Buyer's Termination

The Buyer shall have the right to terminate this Contract forthwith upon giving notice in the event that:

(i) the guarantor providing the Refund Guarantee on behalf of the Builder in accordance with Clause 14(b) (Guarantees – Builder's Refund Guarantee) is deemed insolvent pursuant to Sub-Clause (d) below, unless the Builder provides a replacement Refund Guarantee acceptable to the Buyer within 30 days of the Buyer's notice requiring a replacement Refund Guarantee to be provided, during which period no further payments shall be made to the Builder by the Buyer and provided that notice of termination is given before an acceptable replacement Refund Guarantee is received by the Buyer, or

(ii) the Builder fails to perform any work relating to the construction of the Vessel for a running period of at least the number of days stated in Box 22(i), excluding Permissible Delays, provided that thereafter the Buyer gives the Builder at least the number of days' written notice stated in Box 22(ii) of its intention to terminate this Contract under this Clause and within that period the Builder fails to remedy its breach and provided further that the notice of termination is given before the Builder has remedied its breach; or

(iii)

(1) the delivery of the Vessel is delayed by more than 60~~180~~ days by virtue of events that fall within Clause 34(a)(i) (Permissible Delays – Force Majeure events); or

(2) the delivery of the Vessel is delayed by more than 60~~180~~ days by virtue of events which do not fall within Clause 34(a)(i) or 34(a)(ii) (Permissible Delays); or

(3) the aggregate of delays to the delivery of the Vessel in (1) and (2) above is more than 100~~270~~ days.

The Builder may at any time after the right to terminate has occurred give notice requesting that the Buyer either agrees to a new delivery date or terminates this Contract. Such new delivery date shall be a reasonable estimate by the Builder of the date when the Vessel will be ready for delivery. Within fifteen (15) days of the Builder's request,

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the Buyer shall notify the Builder of its decision. If the Buyer does not terminate this Contract then the new delivery date shall be deemed to be the Delivery Date provided it does not occur later than thirty (30) days prior to the expiry of the Refund Guarantee (Clause 14(b) (Guarantees – Builder's Refund Guarantee)). Notwithstanding Clause 34(a)(i) (Permissible Delays – Force majeure events) and this Clause 39(a)(iii)(1), (2) or (3) but subject to Clause 34(a)(ii) (Permissible Delays- Other events), if the Vessel is not delivered by that date, the Buyer shall have the right to terminate this Contract. The Builder's right to request the Buyer to agree a new delivery date shall operate on each and every occasion the events stated in this Sub-Clause (a)(iii) give rise to the Buyer's option to terminate.

(iv) The reduction in speed would entitle the Buyer to a reduction in the Contract Price greater than the amount stated in Box 13(ii); or

(v) The Buyer rejects the main engine and terminates the Contract in accordance with Clause 9(c)(ii)(2); or

(vi) The reduction in deadweight would entitle the Buyer to a reduction in the Contract Price greater than the amount stated in Box 15(iii); or

~~(vii) The reduction in cubic capacity would entitle the Buyer to a reduction in the Contract Price greater than the amount stated in Box 16(iii); or~~

~~(viii) The condition of the Vessel is deficient in the manner stated in Clause 12 (Other Deficiencies) and Box 17; or~~

(ix) The Builder is in breach of Clause 14 (Guarantees).

(b) Builder's Termination

The Builder shall have the right to terminate this Contract forthwith upon giving notice to the Buyer in the event that:

~~(i) The guarantor providing the Instalment Guarantee or Performance Guarantee on behalf of the Buyer under Clause 14(a) (Buyer's Instalment/Performance Guarantee) is deemed insolvent pursuant to Sub-Clause (d) below, unless the Buyer can provide a replacement Performance Guarantee acceptable to the Builder within 30 days and provided that notice of termination is given before an acceptable Buyer's Instalment or Performance Guarantee is received by the Builder; or~~

(ii) The Buyer fails to pay any sums due under this Contract for a period of twenty-one (21) Banking Days provided that the Builder thereafter gives the Buyer at least 5 Banking Days notice of its intention to terminate under this Clause, and within that period the Buyer fails to remedy the breach and provided that notice of termination is given before the Buyer pays the outstanding sums due; or

(iii) The Buyer fails to take delivery of the Vessel tendered in accordance with this Contract; or

~~(iv) The Buyer is in breach of Clause 14 (Guarantees).~~

(c) Suspension of Work

Without prejudice to Sub-Clause (b) above the Builder shall have the right to suspend work under this Contract if the Buyer fails to pay any instalment stated in Box 11 due for a period of fifteen (15) Banking Days until payment of such outstanding sums.

(d) Deemed Insolvency

A Party or the guarantor providing the Refund Guarantee shall be deemed insolvent if proceedings are commenced against the insolvent Party or the guarantor for winding up, dissolution or reorganisation (otherwise than for the purpose of amalgamation or reconstruction), liquidation, the appointment of a receiver, trustee or similar officer, bankruptcy, suspension of payments or similar events.

A Party shall have the right to terminate this Contract forthwith upon giving notice if the other Party or the guarantor is deemed insolvent.

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(e) Effect of Buyer's Termination

If this Contract is terminated by the Buyer, the Builder shall refund all sums paid by the Buyer to the Builder under Clause 7 (Contract Price) and Clause 15 (Payments) hereof plus interest thereon at the rate stated in Box 30 per annum from the date of payment to the date of refund. The Builder shall also return the Buyer's Supplies, or if they cannot be returned, the Builder shall pay to the Buyer an amount equal to the Buyer's cost for such Buyer's Supplies.

(f) Effect of Builder's Termination

If this Contract is terminated by the Builder, the Builder shall have the right to retain the Buyer's Supplies together with any instalments paid by the Buyer and shall have the right and power either to complete or not to complete the Vessel as it deems fit but in any event shall sell the Vessel (either in its complete or incomplete form), including those Buyer's Supplies which are installed or have been utilised on board the Vessel, at the best price reasonably obtainable at a public or private sale on reasonable terms and conditions.

(i) In the event of the sale of the Vessel in its complete form the proceeds of the sale received by the Builder shall be applied in the following order:

(1) to payment of all expenses incurred by the Builder in respect of the sale and otherwise incurred by the Builder as a result of the Buyer's default;

(2) to payment of all unpaid instalments of the Contract Price including any which would have been payable after the date of termination and interest on such instalments at the rate of interest stated in Box 30 from the respective due dates thereof to the date of application.

(ii) In the event of the sale of the Vessel in its incomplete form the proceeds of sale received by the Builder shall be applied in the following order:

(1) to payment of all expenses incurred by the Builder in respect of the sale and otherwise incurred by the Builder as a result of the Buyer's default;

(2) to payment of all unpaid instalments of the Contract Price to the extent due but not yet paid at the date of termination and interest on such instalments at the rate of interest stated in Box 30 from the respective due dates thereof to the date of application;

(3) to payment of all costs of part construction of the Vessel less any paid instalments and less any sums credited under (2) above;

(4) to payment of the Builder's reasonable net loss of profit caused by the Buyer's default.

(iii) In either of the above events if the proceeds of sale exceed the sums to which such proceeds are to be applied as aforesaid the Builder shall promptly pay any such excess to the Buyer without interest thereon, provided that the amount of such payment to the Buyer shall in no event exceed the total amount of instalments paid by the Buyer. The Builder shall at the same time either permit the Buyer to remove the Buyer's Supplies which are not installed or utilised onboard the Vessel (if any) from the Shipyard for the cost and expense of the Buyer, or give credit to the Buyer for the full value thereof.

(iv) If the proceeds of sale are insufficient to pay the Builder the total amounts due from the Buyer as aforesaid, the Builder may sell the Buyer's Supplies which are not installed or utilised onboard the Vessel (if any) at the best price reasonably obtainable at a public auction or private sale on reasonable terms and conditions, applying the proceeds of such sale toward the unsatisfied amounts due from the Buyer, and giving credit to the Buyer for any excess.

(v) If the proceeds of sale are still insufficient to pay the Builder the total amounts due from the Buyer as aforesaid, the Buyer shall pay to the Builder the amount of such deficiency, plus interest at the rate stated in Box 30 to cover periods whenever payments from the Buyer became overdue.

40. Copyrights, Trade Marks and Patents

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(a) Where they are owned and supplied by a Party, that Party shall retain all copyright, trade mark, patent or similar rights (hereinafter called "Intellectual Property Rights") with respect to the Specification, Plans and Drawings, technical descriptions, calculations, test results and other data, and information and documents concerning the design and construction of the Vessel. The other Party undertakes not to disclose the same or divulge any information contained therein to any third parties without the prior written consent of the first Party, except where it is necessary for usual operation, repair and maintenance of the Vessel and to subsequent owners.

(b) Each Party shall ensure that any manufacture and/or supply according to specifications, drawings, models or other instructions supplied by it shall not infringe any Intellectual Property Rights of third parties. Should claims nevertheless be made against the other Party in respect of Intellectual Property Rights arising out of or in any way related to the performance of the Contract, the first Party shall keep the other Party indemnified against the cost of such claims, including any legal costs in connection therewith.

(c) For the purpose of this Sub-Clause (c), "Information" means technical information relating to the Vessel designated by one Party as confidential, except information which corresponds in substance to information which:

(i) was developed by and in possession of the other Party prior to first receipt from the first Party; and/or

(ii) at the date hereof or hereafter, through no wrongful act or failure to act on the part of the other Party, enters the public domain.

Where it is necessary during the performance of this Contract for the first Party to make information available to the other Party, the other Party shall hold all such Information in confidence and not disclose it to any third parties or use it for any purpose other than as provided herein without the prior written consent of the first Party, which shall not be unreasonably withheld.

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41. Governing law

This Contract shall be subject to English law unless another law is stated in Box 23(a) in which case the law stated in Box 23(a) shall apply.

42. Dispute Resolution

(a) Classification/Regulatory Authorities

Any dispute concerning the Vessel's compliance or non compliance with the rules, regulations and requirements of the Classification Society or other Regulatory Authorities shall be referred to the Classification Society or other Regulatory Authorities, as the case may be, the final decision of which shall be final and binding upon the Parties hereto. All other disputes shall be referred to expert determination or arbitration in accordance with Sub-Clauses (b) through (e).

(b) Expert determination

Unless Sub-Clause (a) applies or Sub-Clauses (c) to (e) apply, in the event that a dispute arises under this Contract either Party may require by notice in writing to the other Party that such dispute be referred to an independent third party (an "Expert") as the Parties jointly nominate in writing, subject to the following procedure:

(i) if the Parties fail to nominate an Expert within seven (7) days of the date of the notice referred to in this Sub-Clause (b), the dispute shall be resolved in accordance with Sub-Clauses (c) to (e) below;

(ii) the Expert shall act as an expert and not as an arbitrator and his decision shall be final and binding upon the Parties;

(iii) the Expert's determination shall be conducted in accordance with the following rules, unless otherwise agreed by the Parties:

(1) the Parties may make written representations within seven (7) days of the Expert's appointment and shall copy in full such written representations to the other Party within such time period;

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(2) the Parties shall have a further seven (7) days to make written comments on each other's representations and shall copy in full such written comments to the other Party within such time period;

(3) the Expert may call for such other documents and written evidence from the Parties as the Expert may reasonably require and the Parties shall provide such documents and written evidence within the period specified by the Expert. The Parties shall copy, in full, such documents and written evidence to the other Party within such time period provided that if either Party claims any such information is confidential to it then, provided in the reasonable opinion of the Expert that Party has properly claimed the same as confidential, the Expert shall not disclose the same to the other Party or to any third party;

(4) the Expert shall decide whether or not to take oral representations from or on behalf of either Party, but if he does so he shall give the other Party the opportunity to be present;

(5) the Expert shall have regard to all representations and evidence before him when making his decision, which shall be in writing, and give full reasons for his decision; and

(6) the Expert shall use all reasonable endeavours to publish his decision within twenty-eight (28) days of his appointment.

(iv) Unless the Parties agree otherwise, each Party shall bear its own costs of a reference to the Expert, and fees and expenses of the Expert shall be borne equally between the Parties.

(v) Without prejudice to the rest of this Sub-Clause (b) the Parties shall consider on an ongoing basis whether or not it would be suitable to refer any dispute to an Expert or to enter into mediation in accordance with Sub-Clause (e).

(c) ~~* Arbitration and Mediation~~

~~Unless Sub-Clause (a) or (b) applies and unless Box 23(b) states a place other than London, any dispute arising out of or in connection with this Contract shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.~~

~~The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.~~

~~The reference shall be to three arbitrators. A Party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party requiring the other Party to appoint its own arbitrator within fourteen (14) calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other Party appoints its own arbitrator and gives notice that it has done so within the fourteen (14) days specified. If the other Party does not appoint its own arbitrator and give notice that it has done so within the fourteen (14) days specified, the Party referring a dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.~~

~~Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.~~

~~In cases where neither the claim nor any counterclaim exceeds the sum of US$100,000 (or such other sum as the Parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.~~

(d) *Unless Sub-Clauses (a), (b) or (c) apply, any dispute arising out of or in connection with this Contract shall be referred to the High Court in Ireland ~~arbitration a~~st ~~the place~~ stated in Box 23(b), subject to the procedures applicable there.

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(e) Notwithstanding as otherwisese provided~~Sub-Clauses (c) and (d) above~~, the Parties may agree at any time to refer to mediation any difference and/or dispute arising out of or in connection with this Contract.

In the case of a dispute in respect of whichproceedings~~arbitration~~ have~~has~~ been commenced ~~under (c) or (d) above,~~ the following shall apply:

(i) Either Party may at any time and from time to time elect to refer the dispute or part of the dispute to mediation by service on the other Party of a written notice (the "Mediation Notice") calling on the other Party to agree to mediation.

(ii) The other Party shall thereupon within fourteen (14) calendar days of receipt of the Mediation Notice confirm that they agree to mediation, in which case the Parties shall thereafter agree a mediator within a further fourteen (14) calendar days, failing which on the application of either Party a mediator will be appointed promptly by the High Court ~~Arbitration Tribunal ("the Tribunal")~~ or such person as the High Court~~Tribunal~~ may designate for that purpose. The mediation shall be conducted in such place and in accordance with such procedure and on such terms as the Parties may agree or, in the event of disagreement, as may be set by the mediator.

(iii) If the other Party does not agree to mediate, that fact may be brought to the attention of the High Court~~Tribunal~~ and may be taken into account by the High Court~~Tribunal~~ when allocating the costs of the proceedings~~arbitration~~ as between the Parties.

(iv) The mediation shall not affect the right of either Party to seek such relief or take such steps as it considers necessary to protect its interest.

(v) Either Party may advise the High Court~~Tribunal~~ that they have agreed to mediation. The proceedings~~arbitration procedure~~ shall continue during the conduct of the mediation but the High Court~~Tribunal~~ may take the mediation timetable into account when setting the timetable for steps in the proceedings~~arbitration~~.

(vi) Unless otherwise agreed or specified in the mediation terms, each Party shall bear its own costs incurred in the mediation and the Parties shall share equally the mediator's costs and expenses.

(vii) The mediation process shall be without prejudice and confidential and no information or documents disclosed during it shall be revealed to the High Court~~Tribunal~~ except to the extent that they are disclosable under the law and procedure governing the proceedings~~arbitration~~.

(Note: The Parties should be aware that the mediation process may not necessarily interrupt time limits.)

* Sub-Clauses (c) and (d) are alternatives; state place of dispute resolution in Box 23(b).

~~If Box 23(b) is not appropriately filled in, Sub-Clause (c) of this Clause shall apply.~~

SECTION 6 – SUNDRY

43. Notices

(a) All notices given by either Party or their agents to the other Party or their agents in accordance with the provisions of this Contract shall be in writing and shall, unless specifically provided in this Contract to the contrary, be sent to the address for that other Party as set out in Box 2 or Box 3 as appropriate or to such other address as the other Party may designate in writing.

(b) A notice may be sent by post, facsimile, electronically or delivered by hand in accordance with Sub-Clause (a).

(c) Any notice given under this Contract shall take effect on receipt by the other party and shall be deemed to have been received:

(i) if posted, on the seventh (7th) day after posting;

(ii) if sent by facsimile or electronically, on the day of transmission;

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(iii) if delivered by hand, on the day of delivery.

And in each case proof of posting, transmission or handing in shall be proof that notice has been given.

44. Effective date of Contract

(a) This Contract shall become effective when the conditions stated in Box 25 have been satisfied. If no conditions are stated in Box 25 then the effective date of the Contract shall be the date stated in Box 1. The Parties shall immediately notify each other when the conditions stated in Box 25 relevant to that Party have been satisfied.

(b) If any of the conditions referred to above have not been satisfied within the number of days stated in Box 26 after the date of this Contract stated in Box 1, this Contract shall be deemed null and void and both Parties shall immediately be relieved of any obligations or liabilities to the other Party under this Contract.

45. Assignment

(a) Builder's assignment

The Builder shall have the right to assign the benefits of this Contract to the Builder's financiers for the purpose of securing the Builder's financing.

(b) Buyer's assignment

(i) The Buyer shall have the right to assign the benefits of this Contract to the Buyer's financiers for the purpose of securing the Buyer's financing.

(ii) The Buyer shall have the right, subject to the Builder's consent which shall not be unreasonably withheld, to assign, transfer or novate this Contract to any other third party.

4~~6. Options~~

~~The Buyer shall have the option for the construction by the Builder of additional vessels as stated in Box 27 at the contract price and delivery dates stated in Box 28, but otherwise on the same terms and conditions as this Contract with logical amendments. Such option must be declared by the Buyer to the Builder within the number of months stated in Box 29 following the Effective date of this Contract referred to in Clause 44 (Effective date of Contract).~~

47. Entire Agreement

This Contract constitutes the entire agreement between the Parties and no promise, undertaking, representation, warranty or statement by either Party prior to the date of this Contract stated in Box 1 shall affect this Contract. Any modification of this Contract shall not be of any effect unless in writing signed by or on behalf of the Parties.

48. Third party rights

Unless expressly identified in this Contract, no third parties shall have the right to enforce any term of this Contract.

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ANNEX "A" – (GUARANTEES)
BIMCO STANDARD NEWBUILDING CONTRACT
CODE NAME: NEWBUILDCON

~~ANNEX A(i)~~
~~BUYER'S IRREVOCABLE LETTER OF GUARANTEE FOR THE 2ND & 3RD INSTALMENTS~~

~~To: (insert name and address of the Builder)~~

~~1. In this Guarantee, the following terms have the following meanings:~~

~~'Award Interest' means any interest which may be awarded against the Buyer in connection with the final determination of any dispute notified to us in accordance with paragraph 5 below.~~

~~'Contract' means the contract dated [here insert date] made between the Buyer and you for the construction of the Vessel, as the same is amended at any time.~~

~~'Contractual Interest' means the sum payable on an Instalment at the Interest Rate in accordance with the terms of the Contract.~~

~~'Demand' means a written demand for payment under this Guarantee.~~

~~'Instalment' means the amount of each of the [here identify the instalments to be guaranteed] payments in respect of the contract price under the Contract (to the extent that it has not been paid) which is made on, before or after the date of this Guarantee to you by the Buyer.~~

~~'Interest Rate' means the rate of interest prescribed by the Contract as applicable to any part of an Instalment which the Buyer is obliged to pay under the terms of the Contract calculated from such date as is prescribed by the Contract to the date of your receipt of the payment.~~

~~'Maximum Liability' means our maximum liability under this Guarantee, including Contractual Interest which shall be [here insert amount] plus any Award Interest.~~

~~'Buyer' means [insert name and address of Buyer]~~

~~'Vessel' means [insert technical description and/or name]~~

~~2. In consideration of you entering into the Contract, agreeing to construct the Vessel in accordance with the terms of the Contract, and agreeing to accept this Guarantee pursuant to the Contract, at the request of the Buyer we irrevocably and unconditionally guarantee (but as primary obligor and not by way of secondary liability only) that in the event that the Buyer fails punctually to pay to you any Instalment we shall, upon receipt by us from you of a Demand for the same (together with a copy of a demand made by you against the Buyer for payment), pay to you or to your order upon the expiry of thirty (30) days from receipt of such Demand the sum demanded by you by way of the payment of any Instalment together with Contractual Interest and Award Interest (if any) provided that our total liability shall not exceed the Maximum Liability.~~

~~This Guarantee shall become effective in the amount corresponding to the amount of each Instalment with effect from the date when it becomes due to you under the Contract together with Contractual Interest, if any.~~

~~3. This Guarantee shall not be affected by any indulgence or delay allowed to the Buyer nor by any amendment to, or variation of, the Contract whether as to time or otherwise that may be agreed between you and the Buyer nor by any circumstances that would otherwise discharge our liability as guarantor.~~

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ANNEX A

4. Subject to paragraph 5 below, this Guarantee shall remain in force until the first to occur of (a) due delivery of the Vessel to, and acceptance of the Vessel by, the Buyer, (b) the payment to you by the Buyer or by us of all sums secured by this Guarantee, and (c) the Buyer's valid and lawful cancellation and/or rescission of the Contract pursuant to the terms of the Contract. However, notwithstanding the foregoing, if within twenty-eight (28) days of our receipt of a Demand we receive a written notice from you or the Buyer that your claim for payment of the sums referred to in the Demand has been disputed and that such dispute will be resolved in accordance with the Contract, the period of validity of this Guarantee shall be extended until thirty (30) days after the dispute has been finally determined in accordance with paragraph 5 below.

5. Notwithstanding the other terms of this Guarantee, if within twenty-eight (28) days of our receipt of a Demand we receive written notice from you or from the Buyer stating that your claim for payment of the sums referred to in the Demand has been disputed and that such dispute will be resolved in accordance with the Contract (including, as may be, by Class, an Expert, a Mediator or in arbitration), then we shall not be obliged to make any payment to you under this Guarantee until thirty (30) days after the dispute has been finally determined or in the event of an appeal from an arbitration award, until thirty (30) days after delivery of the final unappealable judgment; or in the event that the court remits the matter to the arbitrator, until thirty (30) days after the publication of the revised final award or in the event of an appeal from the award, until thirty (30) days after delivery of the final unappealable judgment.

6. All payments to be made under this Guarantee shall be made without any set off or counterclaim and without deduction or withholding for or on account of any taxes, duties or charges whatsoever unless we are compelled by law to deduct or withhold the same in which case we shall make the minimum deduction or withholding permitted and will pay such additional amounts as may be necessary in order that the amount received by you after such deductions or withholdings shall be equal to the amount which would have been received had no such deduction or withholding been made.

7. All payments to be made under this Guarantee shall be made in (insert currency).

8. Notwithstanding any provision in the Contract, this Guarantee shall be freely assignable by you and by any assignee. Upon assignment, all references in this Guarantee to "you" shall be read as references to the assignee or subsequent assignees.

9. This Guarantee is governed by the laws of [state applicable law. In the absence of any statement the law of England and Wales shall apply] and we hereby submit to the exclusive jurisdiction of [state place of dispute resolution. In the absence of any statement the High Court of England and Wales shall apply]. [We hereby authorise and nominate the following agent to accept service of any court proceedings on our behalf: [insert name and address.]]

10. Any notice, claim or Demand to be given or made by you under this Guarantee shall be in writing signed by one of your officers and may be served on us either by post or by tested telex/authorised SWIFT or equivalent, and if sent by post to [insert address] (or such other address as we may notify to you in writing) and if by tested telex at [insert number] or if by SWIFT or equivalent at [insert number] via your bank and shall be effective only upon actual receipt.

11. To the extent that we may be or may hereafter become entitled, in any jurisdiction, to claim for ourselves or our property, assets or revenue immunity (whether by reason of sovereignty or otherwise) in respect of our obligations under this Guarantee from service of process, suit, jurisdiction, judgment, order, award, attachment (before or after judgment or award), set off, execution of a judgment or other legal process and to the extent that in any such jurisdiction there may be attributed to us or any of our property, assets or revenue such an immunity (whether or not claimed) we hereby irrevocably agree not to claim and hereby irrevocably waive such immunity to the fullest extent permitted by the laws of such jurisdiction.

12. We hereby warrant that we are permitted by any relevant law to which we are subject (including, where relevant, the laws of the place or places of each of our incorporation, establishment, regulation, registration and residence) to:

    12.1 issue a guarantee in this form,

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12.2 make payment under this Guarantee in a currency other than that of the place of (where relevant) each of our incorporation, establishment, regulation, registration and residence in case of a Demand for payment under this Guarantee, and

12.3 designate the place stated in paragraph 9 above as the forum and the place of jurisdiction to which we irrevocably submit.

13. We hereby warrant that this Guarantee has been, or will be, duly registered with the relevant State authority in any legal jurisdiction in which such registration is required for any reason.

14. We hereby warrant that we have obtained all necessary approvals and authorisations to issue this Guarantee.

Dated the day of

..... (signature)

for and on behalf of [insert name of Guarantor]

ANNEX A(ii)

IRREVOCABLE LETTER OF GUARANTEE FOR PERFORMANCE OF BUYER'S OBLIGATIONS

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To: [insert name and address of the Builder]

1. In this Guarantee, the following terms have the following meanings:

'Contract' means the contract dated [here insert date] made between the Buyer and you for the construction of the Vessel, as the same may be amended at any time.

'Buyer' means [insert name and address of Buyer]

'Vessel' means [insert technical description and/or name]

2. In consideration of you entering into the Contract, agreeing to construct the Vessel in accordance with the terms of the Contract, and agreeing to accept this Guarantee pursuant to the Contract, at the request of the Buyer we irrevocably and unconditionally guarantee (but as primary obligor and not by way of secondary liability only) performance by the Buyer of all its liabilities and responsibilities under the Contract, including but not limited to due and punctual payment of any instalment of the contract price by the Buyer to you under the Contract, and we shall, upon receipt by us from you of a written demand for the same (together with a copy of a demand made by you against the Buyer for payment), pay to you or to your order upon the expiry of thirty (30) days from receipt of such written demand the sum demanded by you together with interest due under the Contract.

3. This Guarantee is governed by the laws of [state applicable law. In the absence of any statement the law of England and Wales shall apply] and we hereby submit to the exclusive jurisdiction of [state place of dispute resolution. In the absence of any statement the High Court of England and Wales shall apply]. [We hereby authorise and nominate the following agent to accept service of any court proceedings on our behalf: [insert name and address.]]

Dated the day of

..... (signature)

for and on behalf of [insert name of Guarantor]

ANNEX A(iii)
REFUND GUARANTEE

To: [insert name and address of the Buyer]

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ANNEX A

1. In this Guarantee, the following terms have the following meanings:

   'Award Interest' means any interest which may be awarded against the Builder in connection with the final determination of any dispute notified to us in accordance with paragraph 5 below.

   'Contract' means the contract dated [here insert date] made between the Builder and you for the construction of the Vessel, as the same is amended at any time.

   'Contractual Interest' means the sum payable on an Instalment at the Interest Rate in accordance with the terms of the Contract.

   'Demand' means a written demand for payment under this Guarantee.

   'Instalment' means the amount of each payment in respect of the contract price under the Contract (to the extent that it has not been refunded) which is made on, before or after the date of this Guarantee to the Builder (or at the Builder's direction) by you or on your behalf.

   'Interest Rate' means the rate of interest prescribed by the Contract as applicable to any part of an Instalment which the Builder is obliged to repay under the terms of the Contract calculated from the date on which the Builder received the Instalment to the date of your receipt of the repayment.

   'Maximum Liability' means our maximum liability under this Guarantee, including Contractual Interest which shall be [insert amount] plus any Award Interest.

   'Builder' means [insert name and address of shipbuilder]

   'Vessel' means [insert technical description and/or name]

2. In consideration of you entering into the Contract, agreeing to pay an Instalment or Instalments to the Builder, and agreeing to accept this Guarantee pursuant to the Contract, at the request of the Builder we irrevocably and unconditionally guarantee (but as primary obligor and not by way of secondary liability only) that if the Builder becomes liable under the Contract to repay any part of any Instalment we shall, upon receipt by us from you of a Demand for the same (together with a copy of a demand made by you against the Builder for repayment), pay to you or to your order upon the expiry of thirty (30) days from receipt of such Demand the sum demanded by you by way of the repayment of any Instalment together with Contractual Interest and Award Interest (if any) provided that our total liability shall not exceed the Maximum Liability.

   This Guarantee shall become effective in the amount corresponding to the amount of each and every Instalment paid to the Builder under the Contract together with Contractual Interest as and when each such Instalment has been received by the Builder.

3. This Guarantee shall not be affected by any indulgence or delay allowed to the Builder nor by any amendment to, or variation of, the Contract whether as to time or otherwise that may be agreed between you and the Builder nor by any circumstances that would otherwise discharge our liability as guarantor.

4. Subject to paragraph 5 below, this Guarantee shall remain in force until the first to occur of (a) due delivery of the Vessel to, and acceptance of the Vessel by, you (b) the payment to you by the Builder or by us of all sums secured by this Guarantee[, and (c) three-hundred (300) days after the Contractual Date of Delivery]. However, notwithstanding the foregoing, if within twenty-eight (28) days after our receipt of a Demand we receive a written notice from you or the Builder that your claim for the repayment of any sums referred to in the Demand has been disputed and that such dispute will be resolved in accordance with the Contract, the period of validity of this Guarantee shall be extended until thirty (30) days after the dispute has been finally determined in accordance with paragraph 5 below.

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5. Notwithstanding the other terms of this Guarantee, if within twenty-eight (28) days after our receipt of a Demand we receive a written notice from you or from the Builder stating that your claim for repayment of any sums referred to in the Demand has been disputed and that such dispute will be resolved in accordance with the Contract (including, as may be, by Class, an Expert, a Mediator or in arbitration), then we shall not be obliged to make any payment to you under this Guarantee until thirty (30) days after the dispute has been finally determined or in the event of an appeal from an arbitration award, until thirty (30) days after delivery of the final unappealable judgment; or in the event that the court remits the matter to the arbitrator, until thirty (30) days after the publication of the revised final award or in the event of an appeal from the award, until thirty (30) days after delivery of the final unappealable judgment.

6. All payments to be made under this Guarantee shall be made without any set off or counterclaim and without deduction or withholding for or on account of any taxes, duties or charges whatsoever unless we are compelled by law to deduct or withhold the same in which case we shall make the minimum deduction or withholding permitted and will pay such additional amounts as may be necessary in order that the amount received by you after such deductions or withholdings shall be equal to the amount which would have been received had no such deduction or withholding been made.

7. All payments to be made under this Guarantee shall be made in [insert currency].

8. Notwithstanding any provision in the Contract, this Guarantee shall be freely assignable by you and by any assignee. Upon assignment, all references in this Guarantee to "you" shall be read as references to the assignee or subsequent assignees.

9. This Guarantee is governed by the laws of [state applicable law. In the absence of any statement the laws of England and Wales shall apply] and we hereby submit to the exclusive jurisdiction of [state place of dispute resolution. In the absence of any statement the High Court of England and Wales shall apply]. [We hereby authorise and nominate the following agent to accept service of any court proceedings on our behalf: [insert name and address.]]

10. Any notice, claim or Demand to be given or made by you under this Guarantee shall be in writing signed by one of your officers and may be served on us either by post or by tested telex/authorised SWIFT or equivalent, and if sent by post to [here insert address] (or such other address as we may notify to you in writing) and if by tested telex at [insert number] or if by SWIFT or equivalent at [here insert number] via your bank and shall be effective only upon actual receipt.

11. To the extent that we may be or may hereafter become entitled, in any jurisdiction, to claim for ourselves or our property, assets or revenue immunity (whether by reason of sovereignty or otherwise) in respect of our obligations under this Guarantee from service of process, suit, jurisdiction, judgment, order, award, attachment (before or after judgment or award), set off, execution of a judgment or other legal process and to the extent that in any such jurisdiction there may be attributed to us or any of our property, assets or revenue such an immunity (whether or not claimed) we hereby irrevocably agree not to claim and hereby irrevocably waive such immunity to the fullest extent permitted by the laws of such jurisdiction.

12. We hereby warrant that we are permitted by any relevant law to which we are subject (including, where relevant, the laws of the place or places of each of our incorporation, establishment, regulation, registration and residence) to:

    12.1 issue a guarantee in this form,

    12.2 make payment under this Guarantee in a currency other than that of the place of (where relevant) each of our incorporation, establishment, regulation, registration and residence in case of a Demand for payment under this Guarantee, and

    12.3 designate the place stated in paragraph 9 above as the forum and the place of jurisdiction to which we irrevocably submit.

13. We hereby warrant that this Guarantee has been, or will be, duly registered with the relevant State authority in any legal jurisdiction in which such registration is required for any reason.

14. We hereby warrant that we have obtained all necessary approvals and authorisations to issue this Guarantee.

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ANNEX A

Dated the day of

…… (signature)

for and on behalf of [insert name of Guarantor]

ANNEX A(iv)
IRREVOCABLE LETTER OF GUARANTEE FOR BUILDER'S OBLIGATIONS UNDER CLAUSE 27

To: [insert name and address of the Buyer]

1. In this Guarantee, the following terms have the following meanings:

   'Award Interest' means any interest which may be awarded against the Builder in connection with the final determination of any dispute notified to us in accordance with paragraph 5 below.

   'Contract' means the contract dated [here insert date] made between the Builder and you for the construction of the Vessel, as the same may be amended at any time.

   'Demand' means a written demand for payment under this Guarantee.

   'Maximum Liability' means our maximum liability under this Guarantee, including Award Interest which shall be [insert amount].

   'Builder' means [insert name and address of shipbuilder]

   'Vessel' means [insert technical description and/or name]

2. In consideration of you entering into the Contract, agreeing to take delivery of the Vessel, and agreeing to accept this Guarantee pursuant to the Contract, at the request of the Builder we irrevocably and unconditionally guarantee (but as primary obligor and not by way of secondary liability only) that if the Builder becomes liable to pay any sum to you in accordance with the terms of Clause 27(d)(iv) of the Contract in respect of Delivery Defects, as defined in the Contract, we shall, upon receipt by us from you of a Demand for the same (together with a copy of a demand made by you against the Builder for payment), pay to you or to your order upon the expiry of thirty (30) days from receipt of such Demand the sum demanded by you and Award Interest (if any) provided that our total liability shall not exceed the Maximum Liability.

3. This Guarantee shall not be affected by any indulgence or delay allowed to the Builder nor by any amendment to, or variation of, the Contract whether as to time or otherwise that may be agreed between you and the Builder nor by any circumstances that would otherwise discharge our liability as guarantor.

4. Subject to paragraph 5 below, this Guarantee shall remain in force until the first to occur of (a) the repair of the Delivery Defects and (b) the payment to you by the Builder or by us of all sums secured by this Guarantee.

5. Notwithstanding the other terms of this Guarantee, if within twenty-eight (28) days after our receipt of a Demand we receive written notice from you or from the Builder stating that your claim to payment of the sums referred to in the Demand has been disputed and that such dispute will be resolved in accordance with the Contract (including, as may be, by Class, an Expert, a Mediator or in arbitration), then we shall not be obliged to make any payment to you under this Guarantee until thirty (30) days after the dispute has been finally determined or in the event of an appeal from an arbitration award, until thirty (30) days after delivery of the final unappealable judgment; or in the event that the court remits the matter to the arbitrator, until thirty (30) days after the publication of the revised final award.

6. All payments to be made under this our Guarantee shall be made without any set off or counterclaim and without deduction or withholding for or on account of any taxes, duties or charges whatsoever unless we are compelled by law to deduct or withhold the same in which case we shall make the minimum deduction or withholding permitted and will pay such additional amounts as may be necessary in order that the amount received by you after such

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deductions or withholdings shall be equal to the amount which would have been received had no such deduction or withholding been made.

7. All payments to be made under this Guarantee shall be made in [insert currency].

8. Notwithstanding any provision in the Contract, this Guarantee shall be freely assignable by you and by any assignee. Upon assignment, all references in this Guarantee to "you" shall be read as references to the assignee or subsequent assignees.

9. This Guarantee is governed by the laws of [state applicable law. In the absence of any statement the laws of England and Wales shall apply] and we hereby submit to the exclusive jurisdiction of [here state place of dispute resolution. In the absence of any statement the High Court of England and Wales shall apply]. [We hereby authorise and nominate the following agent to accept service of any court proceedings on our behalf: [insert name and address.]]

10. Any notice, claim or Demand to be given or made by you under this Guarantee shall be in writing signed by one of your officers and may be served on us either by post or by tested telex/authorised SWIFT or equivalent, and if sent by post to [here insert address] (or such other address as we may notify to you in writing) and if by tested telex at [here insert number] or if by SWIFT or equivalent at [here insert number] via your bank and shall be effective only upon actual receipt.

11. To the extent that we may be or may hereafter become entitled, in any jurisdiction, to claim for ourselves or our property, assets or revenue immunity (whether by reason of sovereignty or otherwise) in respect of our obligations under this Guarantee from service of process, suit, jurisdiction, judgment, order, award, attachment (before or after judgment or award), set off, execution of a judgment or other legal process and to the extent that in any such jurisdiction there may be attributed to us or any of our property, assets or revenue such an immunity (whether or not claimed) we hereby irrevocably agree not to claim and hereby irrevocably waive such immunity to the fullest extent permitted by the laws of such jurisdiction.

12. We hereby warrant that we are permitted by any relevant law to which we are subject (including, where relevant, the laws of the place or places of each of our incorporation, establishment, regulation, registration and residence) to:

    12.1 issue a guarantee in this form,

    12.2 make payment under this Guarantee in a currency other than that of the place of (where relevant) each of our incorporation, establishment, regulation, registration and residence in case of a Demand for payment under this Guarantee, and

    12.3 designate the place stated in paragraph 9 above as the forum and the place of jurisdiction to which we irrevocably submit.

13. We hereby warrant that this Guarantee has been, or will be, duly registered with the relevant State authority in any legal jurisdiction in which such registration is required for any reason.

14. We hereby warrant that we have obtained all necessary approvals and authorisations to issue this Guarantee.

Dated the day of

…… (signature)

for and on behalf of [insert name of Guarantor]

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ANNEX "B" - (SPECIFICATION)
BIMCO STANDARD NEWBUILDING CONTRACT
CODE NAME: NEWBUILDCON

TBC on award of contract

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ANNEX "C" - (MAKER'S LIST)
BIMCO STANDARD NEWBUILDING CONTRACT
CODE NAME: NEWBUILDCON

TBC on award of contract

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