

To:

From:
(the "Managers")

Dear Sirs

Date:

m.v. " " (the "Vessel")

1. Background

We refer to certain financing arrangements between, amongst others, ("the Owners") and yourselves in respect of the Vessel.

We understand that this Letter of Undertaking in favour of yourselves in respect of the Vessel is one of the conditions of the said financing arrangements.

2. Definitions

In this Letter of Undertaking the following definitions apply:

"Management Agreement" means the management agreement attached at ANNEX 1 to this Letter of Undertaking (as may be amended, supplemented or restated from time to time).

"Owners' Borrowing" means the financing arrangements under the (state title and date of loan arrangement).

"Earnings" means, in relation to the Vessel, all monies whatsoever which are now, or later become, payable (actually or contingently) to the Owners or the Finance Parties and which arise out of the use or operation of the Vessel (but not limited to):

- (a) all freight, hire and passage monies, money or compensation payable for the provision of services by or from the Vessel or under any charter commitment, compensation payable to the Owners or the Finance Parties in the event of requisition of the Vessel for hire, general average contribution, remuneration for salvage and towage services, demurrage and detention monies and damages for breach (or payments for variation or termination) of any charter party or other contract for the employment of the Vessel;
- (b) all monies which are at any time payable under Insurances in respect of loss of earnings; and
- (c) if and whenever the Vessel is employed on terms whereby any monies falling within paragraphs (a) or (b) are pooled or shared with any other person, that proportion of the net receipts of the relevant pooling or sharing arrangement which is attributable to the Vessel.

"Finance Parties" means the banks, financial institutions, their agents and security agents, and any other financing or creditor parties according to the Owners' Borrowing.

"Insurances" means, in relation to the Vessel:

- (a) any policy and contract of insurance including entries of the Vessel in any protection and indemnity or war risk association, effected in relation to the Vessel and the Vessel's Earnings whether before or after the date of the Owners' Borrowing; and
- (b) all rights and other assets relating to, or derived from, any such policies and contracts of insurance (including any rights to a return of premium).

"Permitted Credit" means any credit extended by us to the Owners or the Vessel, not exceeding an amount in aggregate of US\$750,000 at any time, in connection with our management of the Vessel, whether pursuant to the Management Agreement (as defined in paragraph 3 below) or otherwise, for or in respect of our management fees, general management expenses, victualling or other costs, expenses and disbursements made or incurred by us for or on behalf of the Owners or the Vessel (including without limitation any costs, expenses and disbursements (including payment of wages) incurred or made by us in respect of the officers and crew of the Vessel).

"Requisition Compensation" means, in relation to the Vessel:

- (a) any and all compensation or other monies payable by reason of any act or event such as is referred to in paragraph (b) or (c) of the definition of "Total Loss" relating to the Vessel; and
- (b) all claims, rights and remedies of the Owners against the government or official authority or person or persons claiming to be or to represent a government or official authority or other entity in relation to (a) above.

"Total Loss" means, in relation to the Vessel:

- (a) any actual, constructive, compromised, agreed or arranged total loss of the Vessel;
- (b) any expropriation, confiscation, requisition or acquisition of the Vessel, whether or not for consideration (full, partial or nominal), which is effected by any government or official authority or by any person or persons claiming to be or to represent a government or official authority, unless it is within thirty (30) days redelivered to the Owners' full control;
- (c) any arrest, capture, seizure or detention of the Vessel except as described in paragraph (d) below unless it is within sixty (60) days redelivered to the Owners' full control; and
- (d) any hijacking or theft of the Vessel by act of piracy unless the Vessel is within one hundred and eighty-three (183) days released and restored to the full control of the Owners from such hijacking or theft.

3. Appointment

We hereby confirm that we have been appointed by the Owners as the managers of the Vessel and have accepted such appointment on the terms of the Management Agreement.

4. Undertakings

In consideration of the Finance Parties granting approval to our appointment as managers of the Vessel, we hereby irrevocably and unconditionally agree with and undertake to yourselves that for the duration of our appointment under the Management Agreement:

- (a) we shall not amend, supplement or restate the Management Agreement in any material way without your prior written consent, which shall not be unreasonably withheld or delayed, except that we may terminate the Management Agreement as provided for therein;

- (b) in the event we decide to terminate the Management Agreement for any non-payment by the Owners we shall give you at least fifteen (15) days' notice of our intention to do so;
- (c) we shall not, without your prior written consent, extend any credit to the Owners, whether in respect of our fees, general management expenses, victualling or other disbursements on behalf of the Owners, whether pursuant to the Management Agreement or otherwise, except for the Permitted Credit;
- (d) all claims of whatsoever nature which we have or may at any time hereafter have, whether in our capacity as managers of the Vessel, the Earnings, Insurances or Requisition Compensation or against the Owners shall be in all respects subordinate to all of the rights and claims, whether actual or contingent, of all the Finance Parties in respect of Owners' Borrowings, except in respect of any Permitted Credit;
- (e) we shall not take, accept or receive the benefit of any security, guarantee, indemnity or other assurance against loss from the Owners in respect of any claims we may have from time to time arising out of or in connection with the Management Agreement;
- (f) we shall not exercise any right of set-off or counterclaim or take any step to exercise or enforce any right or remedy or initiate legal or quasi-legal proceedings in any jurisdiction arising out of or in connection with the Management Agreement which we have against the Owners or the Vessel, the Earnings, the Insurances or any Requisition Compensation, except in respect of any Permitted Credit;
- (g) we shall not compete with any of the Finance Parties in a liquidation or other winding-up or bankruptcy (or equivalent in any relevant jurisdiction) of Owners or in any legal or administration action or any quasi legal proceedings in connection with the Vessel, the Earnings, Insurances, Requisition Compensation or any other property or assets of the Owners, except in respect of any Permitted Credit;
- (h) if we receive or recover any amount or distribution in breach of our obligations under this Letter of Undertaking or prior to the discharge of Owners' Borrowings, we shall hold that amount on trust for you;
- (i) we shall upon your first written request deliver to you, at your cost and expense, any documents related to the services provided by us under the Management Agreement, which are reasonably accessible and not subject to any restrictions by law or any confidentiality obligations, in respect of the Vessel, the Earnings, Insurances and Requisition Compensation;
- (j) we shall not sub-contract or delegate our appointment as managers without your prior written consent, except as provided for under the Management Agreement;
- (k) if requested by you as a result of acceleration of the Owners' Borrowing we shall terminate the Management Agreement with immediate effect and hand over any and all documents and information relating to the Vessel and cooperate with our replacement as managers of the Vessel. Such termination shall be without prejudice to our rights accrued due prior to the date of termination under the Management Agreement; and
- (l) we agree to give consent to the broker and/or underwriters of the Vessel to enable you to collect or recover any monies payable in respect of the Insurances.

5. Insurance

- (a) If we are named as an assured under any obligatory insurances, we confirm that our interest is limited as follows:
 - (i) in respect of any obligatory insurances for hull and machinery and war risks:

- (1) to any provable out-of-pocket expenses that we have incurred and which form part of any recoverable claim on underwriters; and
 - (2) to any third-party liability claims where cover for such claims is provided by the policy and then only in respect of discharge of any claims made against us; and
- (ii) in respect of any obligatory insurances for protection and indemnity risks, to any recoveries we are entitled to make by way of reimbursement following discharge of any third-party liability claims by us.
- (b) We agree that your interest may be endorsed on the Insurances by the incorporation of the loss payable clauses agreed by you with the Owners and the relevant insurers in the form at ANNEX 2.
- (c) We agree that any monies received by you in respect of such insurances may be applied in accordance with the terms of the Owners' Borrowing and will cooperate with you to achieve this.

6. Further Assurances

We agree to do such things as may be necessary to give effect to the provisions of this Letter of Undertaking, including the execution of any documents.

7. Termination

Our obligations under this Letter of Undertaking shall terminate when the Owners' Borrowing has been discharged in full.

8.1 Governing Law and Jurisdiction

- (a) This Letter of Undertaking and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.
- (b) The courts of England have jurisdiction to settle any dispute arising out of or in connection with this Letter of Undertaking (including a dispute relating to the existence, validity or termination of this Letter of Undertaking or any non-contractual obligation arising out of or in connection with this Letter of Undertaking ("Disputes")).
- (c) This paragraph 8.1(c) is for the benefit of the Finance Parties, and the Finance Parties shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent permitted by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.
- (d) We appoint as our agents for process in England:

8.2* Governing Law and Jurisdiction

- (a) This Letter of Undertaking and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with _____ law.
- (b) The courts of _____ have jurisdiction to settle any dispute arising out of or in connection with this Letter of Undertaking (including a dispute relating to the existence, validity or termination of this Letter of Undertaking or any non-contractual obligation arising out of or in connection with this Letter of Undertaking ("Disputes")).

- (c) This Paragraph 8.2(c) is for the benefit of the Finance Parties, and the Finance Parties shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent permitted by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

Note: This paragraph 8.2 is an alternative to paragraph 8.1 above – delete/remove the alternative not agreed/not applicable.

9. Notices

Any notice or other communication under or in connection with this Letter of Undertaking shall be in writing and shall be delivered personally, or sent by letter, courier or e-mail to the following addresses:

- (a) For the Managers, to:

Address:

Fax:

Email:

Attention:

- (b) For you to:

Address:

Fax:

Email:

Attention:

or to such other address as the recipient may notify or may have notified to the other party in writing.

EXECUTED on the date stated at the beginning of this Letter of Undertaking.

EXECUTED by (the “Managers”)

ANNEX 1 (MANAGEMENT AGREEMENT)

Sample copy

ANNEX 2 (LOSS PAYABLE CLAUSE)

Sample copy