



**Registration of a Charge**

Company name: **CALMAC FERRIES LIMITED**

Company number: **SC302282**

Received for Electronic Filing: **11/10/2016**



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**Details of Charge**

Date of creation: **01/10/2016**

Charge code: **SC30 2282 0005**

Persons entitled: **MARITIME LEASING (NO. 19) LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **STEPHENSON HARWOOD LLP**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 302282

Charge code: SC30 2282 0005

The Registrar of Companies for Scotland hereby certifies that a charge dated 1st October 2016 and created by CALMAC FERRIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th October 2016 .

Given at Companies House, Edinburgh on 12th October 2016

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

## CHARTERER ACCOUNT CHARGE

A DEED OF SECURITY made on 1 October 2016 between:

- 1) **CALMAC FERRIES LIMITED**, a company incorporated in Scotland (with registered number SC302282) and having its registered office at The Ferry Terminal, Gourock, PA19 1QP (the "Charterer");
- 2) **CALEDONIAN MARITIME ASSETS LIMITED**, a company incorporated in Scotland (with registered number SC001854) and having its registered office at Municipal Buildings, Fore Street, Port Glasgow, Renfrewshire PA14 5EQ (the "Lessee");
- 3) **MARITIME LEASING (NO. 19) LIMITED**, a company incorporated in England (with registered number 05017378) and having its registered office at 25 Gresham Street, London EC2V 7HN (the "Lessor"); and
- 4) **LLOYDS BANK PLC**, a company incorporated under English law with company number 2065 and having its registered office at 25 Gresham Street, London, EC2V 7HN (the "Account Bank").

### WHEREAS:

- A) Pursuant to the Lease, the Lessor has agreed to lease the Vessel to the Lessee upon and subject to the terms and conditions of the Lease.
- B) Pursuant to the Bareboat Charter, the Lessee has agreed to charter the Vessel to the Charterer upon and subject to the terms and conditions of the Bareboat Charter.
- C) As a condition of the Bareboat Charter, the Charterer is required to grant the security set out in this deed.

IT IS AGREED as follows:

### DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

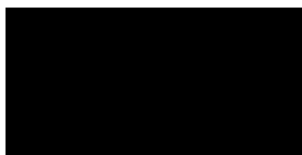
In this Deed:

"**Bareboat Charter**" means the bareboat charterparty dated on or about the date hereof made between the Lessee and the Charterer in relation to the Vessel, as amended, supplemented or novated from time to time.

"**Charterer Assigned Property**" has the meaning given to it in Clause 3.1.

"**Charterer Blocked Account**" means the following account held in the name of the Charterer with the Account Bank:

Bank:  
Port Code:  
Account Number:  
Account Name:



"**Charterer Obligations**" means the obligations and liabilities of the Charterer to the Lessee pursuant to the Bareboat Charter.

"**Delivery Date**" means the date on which delivery occurs under the Bareboat Charter.

"**Facility Agreement**" means the intra-group loan facility between the Lessor as borrower and Jovds Bank plc as lender pursuant to which a loan facility has been made available to the Lessor for the purpose of, inter alia, financing the Vessel.

"**Lease**" means the lease dated 21 June 2012 between the Lessor and the Lessee in relation to the Vessel.

"**Lessor Account**" means the following account held in the name of the Lessor with the Account Bank:

Bank:  
Sort Code:  
Account Number:  
Account Name:



"**Secured Obligations**" means the obligations and liabilities of the Lessee to the Lessor pursuant to the Lease remaining unpaid or unperformed in accordance therewith.

"**Secured Parties**" means the lender or lenders from time to time under any Facility Agreement and any other party defined as a "Finance Party" under any Facility Agreement.

"**Security Interest**" means any mortgage, charge, pledge, lien, assignment, encumbrance, right of set off or security interest whatsoever, howsoever created or arising or any other agreement, arrangement or court order having substantially the same economic effect as the foregoing.

"**Security Period**" means the period commencing on the date of this Deed and ending on the date on which all of the Charterer Obligations have been fully and finally discharged.

"**Vessel**" means the UK flag vessel m.v. "LOCH SEAFORTH" (ex hull no.764).

## 2.2 Headings

Clause headings and the index are inserted for convenience of reference only and shall be ignored in the interpretation of this Deed.

## 2.3 References

in this Deed, unless the context otherwise requires:

- 2.3.1 references to clauses and schedules are to be construed as references to clauses of, and schedules to, this Deed and references to this Deed include its Appendices;
- 2.3.2 references to (or to any specified provision of) this Deed or any other document in this Deed shall be construed as references to this Deed, that provision or that document as in force for the time being and as each of them may be from time to time amended or supplemented;
- 2.3.3 words importing the plural shall include the singular and *vice versa*;

- 1.3.4 references to a time of day are to London time;
- 1.3.5 any reference to a "month" is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month except that if there is no numerically corresponding day in the calendar month in which that period ends, that period shall end on the last day in that calendar month;
- 1.3.6 references to a person shall be construed as references to an individual, firm, company, corporation, unincorporated body of persons or any Government Entity;
- 1.3.7 references to any enactment shall be construed as references to such enactment as re-enacted, amended or extended; and
- 1.3.8 references to any party to any document includes their respective successors and permitted transferees and assign.

## 2. MAINTENANCE OF MINIMUM BALANCE

- 2.1 The Charterer agrees to maintain a credit balance in the Charterer Blocked Account of at least one pound Sterling at all times during the Security Period and under no circumstances shall the balance of the Charterer Blocked Account ever be reduced to an amount less than one pound Sterling during the Security Period.

## 3. CREATION AND RELEASE OF SECURITY

- 3.1 The Charterer with full title guarantee hereby irrevocably and unconditionally charges and assigns to the Lessor as continuing security for the payment and discharge of the Secured Obligations all rights and title in and to:

- 3.1.1 the Charterer Blocked Account; and

- 3.1.2 all sums of money which may now or which may from time to time or at any time be standing to the credit of the Charterer Blocked Account together with all interest thereon and all rights to receive interest and all other rights and benefits accruing to or arising in connection therewith including all of its rights against the Account Bank in connection with the Charterer Blocked Account and together with any certificates of deposit, deposit receipts or other instruments or securities relating thereto,

(together the "Charterer Assigned Property").

- 3.2 Without prejudice to the provisions of Clause 5, the security created pursuant to this Deed shall become immediately enforceable if:

- 3.2.1 the Charterer fails to perform its obligations and discharge its liabilities (including the Charterer Obligations) under the Bareboat Charter or this Deed within any time specified therein and such failure is not remedied in accordance with the terms of those documents; or

- 3.2.2 a termination event has occurred and is continuing under the Bareboat Charter.

3.3 Without prejudice to the provisions of Clause 5, at any time after the security constituted by this Deed has become enforceable, the Lessor may call on any part of the sums then standing to the credit of the Charterer Blocked Account.

3.4 Upon discharge in full of the Charterer Obligations (and provided that the Lessor shall not have been advised by insolvency counsel that having regard to the facts then existing and by reason of any bankruptcy, insolvency or other applicable laws affecting creditors' rights and the discharge of obligations, the Lessor will or will become likely to be obliged to pay to or to account to the Charterer, the Lessee or any other person or any liquidator or trustee in bankruptcy of any of them for any amount corresponding to all or any part of the amount paid in or towards such discharge) the Lessor shall, at the request and cost of the Charterer, release the Charterer Assigned Property from the security constituted by this Deed and reassign the Charterer Assigned Property to the Charterer without recourse or warranty.

#### 4. **NEGATIVE PLEDGE**

Save for the security created by this Deed, the Charterer shall not create, agree to create or permit to exist any trust, interest or Security Interest (howsoever ranking in point of priority) of any nature whatsoever (other than by operation of law or any enactment) in, over or affecting the Charterer Blocked Account or any amounts from time to time standing to the credit thereof other than the security created pursuant to this Deed.

#### 5. **WITHDRAWAL ONLY BY LESSOR**

5.1 The Charterer and the Lessor hereby agree (and the Account Bank acknowledges) that during the Security Period only the Lessor shall be authorised to make withdrawals from the Charterer Blocked Account and that the Lessor may from time to time withdraw all amounts (subject to Clause 2 (*Minimum Balance*)) then standing to the credit of the Charterer Blocked Account (including any amounts of interest credited thereto) for payment to the Lessor Account for application in accordance with Clause 7.3 (*Application of Amounts*) of the Lease in satisfaction of, among other things:

5.1.1 the obligations of the Charterer to pay charter hire pursuant to the terms of the Bareboat Charter; and

5.1.2 the obligations of the Lessee to pay Rent pursuant to the terms of the Lease.

5.2 Until the end of the Security Period, the Charterer agrees that it shall not make (and shall not be entitled to make) any withdrawal or transfer of any amounts from the Charterer Blocked Account, nor have any dealings in the Charterer Blocked Account nor request any variation of the terms of the agreement with the Account Bank relating to the Charterer Blocked Account, without in each case the Lessor's prior written instructions or consent.

#### 6. **ACKNOWLEDGMENT OF RIGHT TO ASSIGN**

6.1 The Lessor may (at its own cost) without the consent of the Lessee or the Charterer create or permit to exist any encumbrance over the property described in Clause 3 of this Deed in favour of any other person and/or assign by way of security its rights under this Deed in favour of any Secured Party.

6.2 The Charterer will, at the Lessor's cost, co-operate with any of the Lessor, any Secured Party and any other assignee, transferee, purchaser or beneficiary of any encumbrance contemplated by this Clause 6 in implementing any assignment, sale, transfer, conveyance or creation or existence of any encumbrance as contemplated by this Clause 6 (including, without limitation, by complying with all reasonable requests of the Lessor or any such other person in respect of any such assignment, sale, transfer, conveyance or creation or existence of any encumbrance) and will take all such steps and execute all such documents (including any agreements directly with any Secured Party) as the Lessor or any such other person may reasonably request to give effect to the provisions of this Clause 6.

7. **NOTICE TO ACCOUNT BANK**

The Charterer shall as soon as reasonably practicable on execution of this Deed give notice to the Account Bank in the form set out in Appendix 1 (or such other form as is approved by the Lessor) and shall use all reasonable endeavours to procure that the Account Bank returns a confirmation to the Lessor in the form set out in Appendix 2 (or such other form as is approved by the Lessor).

8. **FURTHER ASSURANCE**

Without prejudice to Clause 6.2 of this Deed, the Charterer shall, at its own cost, do and execute, or arrange for the doing and executing of, each act, document and thing which is reasonably necessary and which is within its own power or control to implement or establish the obligations imposed on it under this Deed.

9. **ACCOUNT ADMINISTRATION EXPENSES**

All expenses incurred in relation to the administration of the Charterer Blocked Account and (other than in relation to tax) shall be for the account of the Charterer and the Charterer shall not be entitled to deduct from the amounts standing to the credit of the Charterer Blocked Account any amount in respect of such costs and expenses.

10. **NO WAIVER**

No failure to exercise nor delay in exercising any right, power or remedy under or in connection with this Deed shall operate as a waiver thereof, and no single or partial exercise of any right, power or remedy shall preclude any further or other exercise thereof, or the exercise of any other right or remedy.

11. **AMENDMENTS AND CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

No amendment to this Deed shall be effective unless made in writing and signed or executed by an authorised representative of each of the Parties and any Secured Party which has been granted an encumbrance over any of the Lessor's rights hereunder. The rights expressed to be granted to such Secured Party in this Clause 11 shall be enforceable by such Secured Party pursuant to the Contracts (Rights of Third Parties) Act 1999. Save as otherwise provided in this Clause 11, the Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to the provisions of this Agreement nor shall any amendment to this Deed need to be signed or executed by any Secured Party or any other person.

2. NOTICES


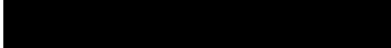

2.1 All notices under, or in connection with, this Deed will, unless otherwise stated, be given in writing by letter or facsimile on a Banking Day. Any such notice is deemed to be given as follows:

- 2.1.1 if sent by post, on the third Banking Day after posting (first class postage pre-paid);
- 2.1.2 if sent by courier, when delivered; and
- 2.1.3 if sent by facsimile, when transmitted provided that a successful transmission report has been received by the transmitting party.

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


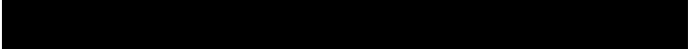

i) to the Charterer at:

Address: CalMac Ferries Limited  
The Ferry Terminal  
Gourock  
PA19 1QP

Attention:   
Email:   
Telephone: 


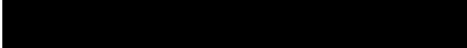

ii) to the Lessee at:

Address: Caledonian Maritime Assets Limited  
Municipal Buildings  
Fore Street  
Port Glasgow  
Renfrewshire PA14 5EQ

Attention:   
Fax No.:   
Email: 

iii) to the Lessor at:

Address: Maritime Leasing (No. 19) Limited  
10 Corporate Asset Finance  
4th Floor  
10 Gresham Street  
London, EC2V 7AE

Attention:   
Fax No.:   
Email: 



Telephone: [REDACTED]

iv) to the Account Bank at:

Address: Lloyds Bank plc  
Two Corporate Asset Finance  
Sixth Floor  
10 Gresham Street  
London, EC2V 7AE

Attention: [REDACTED]  
Fax No.: [REDACTED]  
Email: [REDACTED]  
Telephone: [REDACTED]

or any substitute address, fax number, department or officer as any party may notify to the Lessor (or the Lessor may notify to the other parties, if a change is made by the Lessor) by not less than five (5) Business Days' notice.

### 3. GOVERNING LAW

This Deed and any issue or Dispute (as defined in the Lease) arising out of or in connection with it (whether contractual or non-contractual, including claims in tort or for breach of statute or regulation or otherwise) are governed by English law.

### 4. DISPUTES

4.1 For the exclusive benefit of the Lessor, each of the Charterer and the Lessee irrevocably agrees that the courts of England are to have exclusive jurisdiction to settle any dispute (a) arising from or in connection with this Deed, or (b) relating to any non-contractual obligations arising from or in connection with this Deed and that any proceedings may be brought in those courts.

4.2 Nothing contained in this Clause shall limit the right of the Lessor to commence any proceedings against the Charterer and/or the Lessee in any other court of competent jurisdiction nor shall the commencement of any proceedings against the Charterer and/or the Lessee in one or more jurisdictions preclude the commencement of any proceedings in any other jurisdiction, whether concurrently or not.

4.3 Each of the Charterer and the Lessee irrevocably waives any objection which either of them may now or in the future have to the laying of the venue of any proceedings in any court referred to in this Clause and any claim that those proceedings have been brought in an inconvenient or inappropriate forum, and irrevocably agree that a judgment in any proceedings commenced in any such court shall be conclusive and binding on them and may be enforced in the courts of any other jurisdiction.

### 5. COUNTERPARTS

This Deed may be executed in counterparts, each of which when executed and delivered shall be an original, and together constitute the same document.

16. **EXCLUSION OF LIMITATIONS**

Sections 93 (*Restriction on consolidation of mortgages*) and 103 (*Regulation of exercise of power of sale*) of the Law of Property Act 1925 shall not apply to this Deed.

17. **ILLEGALITY, ETC**

If any one of the provisions of this Deed is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Deed shall not in any way be affected or impaired thereby.

**EXECUTED AS A DEED** by the parties on the date first above mentioned.

**APPENDIX 1**

**FORM OF NOTICE**

From: CalMac Ferries Limited  
To: Lloyds Bank plc  
Copy: Maritime Leasing (No. 19) Limited (the "**Lessor**")  
Dated: [            ]

Dear Sirs

1. We hereby give you notice that we have assigned absolutely to the Lessor all our right, title and interest in and to all sums deposited or to be deposited with you in our account bearing account number [●] (the "**Charterer Blocked Account**"), and so that all interest thereon shall be credited to the **Charterer Blocked Account**.
2. We further direct you that from the date hereof and until further written notice from the Lessor, you may only take instruction in relation to the **Charterer Blocked Account** from the Lessor.
3. We should be grateful if you would:
  - 3.1 acknowledge to the Lessor receipt of this letter;
  - 3.2 confirm the Lessor's interest and that you have not received notice of any prior assignment;
  - 3.3 confirm that you waive all rights of combination, consolidation, merger or set-off that you may have over all sums deposited with you in the **Charterer Blocked Account**; and
  - 3.4 confirm to the Lessor that you will not seek to modify, vary or amend the terms upon which the sums are deposited in the **Charterer Blocked Account** without the Lessor's prior written consent,

and, for this purpose, we would be obliged if you would send a letter in the form of the enclosed draft to the Lessor.

Yours faithfully

For and on behalf of

**CALMAC FERRIES LIMITED**

Name:

Title:

## APPENDIX 2

### FORM OF ACKNOWLEDGMENT

From: Lloyds Bank plc

To: Maritime Leasing (No. 19) Limited

Dated: [            ]

Dear Sirs

#### CalMac Ferries Limited ("Charterer")

1. We hereby acknowledge receipt of your Notice of Assignment dated [            ] 2016.
2. We confirm that:
  - 2.1 the account held by the Charterer bearing account number [●] (the "**Charterer Blocked Account**") has been opened with us;
  - 2.2 so far as we are aware, the Charterer Blocked Account and the amounts from time to time standing to the credit of the Charterer Blocked Account are free of all charges, equities or adverse interests of any kind including any right of set-off, combination of account or other such rights and the said moneys (including amounts of interest credited to the Charterer Blocked Account from time to time) are payable by us to you; and
  - 2.3 we have not received any prior notice of assignment from the Charterer or any third party relating to the Charterer Blocked Account or the sums deposited therein.
3. We irrevocably undertake with you that until receipt of notice by us from you confirming that you no longer have any interest in the said sums:
  - 3.1 we shall not exercise any right of combination, consolidation, merger or set-off which we may have in respect of any moneys standing or accruing to the credit of the Charterer Blocked Account;
  - 3.2 we shall only permit moneys to be drawn on or debited to the Charterer Blocked Account against the signature of one of your authorised signatories;
  - 3.3 we shall send to you copies of all statements, orders and notices given by us in connection with the Charterer Blocked Account; and
  - 3.4 we shall notify you promptly upon our receipt of any notice of any third party interest in the Charterer Blocked Account or in the sums deposited therein.
4. We further acknowledge that you shall have no liability for any costs and expenses incurred in respect of the maintenance and operation of the Charterer Blocked Account.

Yours faithfully





For and on behalf of


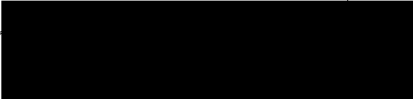


**LLOYDS BANK PLC**

Name:

Title:

EXECUTION PAGE

Signed and delivered as a Deed )   
by CALMAC FERRIES LIMITED )  
acting by ) Robbie Drummond  
is duly authorised ) Director  
in the presence of:   
Witness signature:   
Name: Eleanor Lane  
Address: 

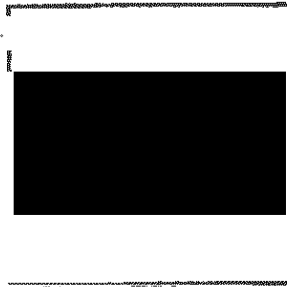
Signed and delivered as a Deed )   
by CALEDONIAN MARITIME ASSETS )  
LIMITED ) William Sutton  
acting by ) Director  
is duly authorised )  
in the presence of:   
Witness signature:   
Name: Eleanor Lane  
Address: 

Signed and delivered as a Deed )  
by MARITIME LEASING (NO. 19) )  
LIMITED )  
acting by )  
its duly authorised )  
in the presence of: )  
Witness signature: [redacted] .....



Name: XINYU CAI

Address:



Signed and delivered as a Deed )  
by LLOYDS BANK PLC )  
acting by )  
its duly authorised )  
in the presence of: )  
Witness signature: [redacted] .....



Name: XINYU CAI

Address:

