



BIMCO

SUPERMAN

STANDARD AGREEMENT FOR THE SUPERVISION OF VESSEL CONSTRUCTION

1. Place and date of Agreement		2. Commencement date (Cl. 2)	
3. Company (Cl. 1) (i) Name: (ii) Place of registered office: (iii) Law of registry:		4. Supervisors (Cl. 1) (i) Name: (ii) Place of registered office: (iii) Law of registry:	
5. Shipyard (state name and address) (Cl. 1) Click here to enter text. Click here to enter text.		6. Vessel (Cl. 1 and Annex A) (i) Hull number: (ii) IMO number: Click here to enter text. (iii) Specification number:	
7. Classification Society (Cl. 1) Click here to enter text.	8. Flag State (Cl. 1) Click here to enter text.	9. Contractual Date of Delivery (Cl. 1)	
10. Scope of Services (tick each box below if agreed) (see Annex B (Schedule of Fees)) (Cl. 1) (i) Specification review <input type="checkbox"/> (ii) Makers List review <input type="checkbox"/> (iii) Plan approval <input type="checkbox"/> (iv) Site supervision <input type="checkbox"/>		11. Supervisors' nominated bank account (Cl. 10(a))	
12. Interest (state rate of interest to apply after due date to outstanding sums) (Cl. 9(a))		13. Delays to delivery (state number of days to apply) (Cl. 17(d)(iii))	
14. Supervisors' maximum liability (state amount) (Cl. 14(b))		15. Fee on early termination/Maximum costs (state number of months of Fee and maximum costs to apply) (Cl. 17(f))	
16. Dispute resolution (state (a), (b), (c) or (d) of Cl. 18, as agreed; if (c) agreed also state whether Singapore or English law to apply; if (d) agreed also state place of the law governing this Contract and place of arbitration) (Cl. 18) -			
17. Notices (state full style contact details for serving notice and communication <u>to the Company</u>) (Cl. 19(a))		18. Notices (state full style contact details for serving notice and communication <u>to the Supervisors</u>) (Cl. 19(a))	

It is mutually agreed between the party stated in Box 3 and the party stated in Box 4 that this Agreement consisting of PART I and PART II as well as Annexes "A" (Vessel Details), "B" (Schedule of Fees), "C" (Supervisors' Budget), "D" (Associated Vessels) and "E" (Site Team) attached hereto, shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I and Annexes "A", "B", "C", "D" and "E" shall prevail over those of PART II to the extent of such conflict but no further.

Signature (Company)	Signature (Supervisors)
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PART II
SUPERMAN - Standard Agreement for the Supervision of Vessel Construction

SECTION 1 – Basis of the Agreement

1. Definitions

In this Agreement save where the context otherwise requires, the following words and expressions shall have the meanings hereby assigned to them:

"Affiliate" means a company, partnership, or other legal entity which controls, is controlled by, or is under common control with, a party. For the purposes of this definition, the term "control" means the direct or indirect ownership of fifty per cent (50%) or more of the issued share capital or any kind of voting rights in a company, partnership, or legal entity, and "controls", "controlled" and "under common control" shall be construed accordingly.

"Buyer" means the party which shall purchase, take delivery of and pay for the Vessel under the Shipyard Contract.

"Buyer's Supplies" means all of the items to be provided by the Company in accordance with the Shipyard Contract.

"Classification Society" means the classification society stated in Box 7.

"Company" means the party identified in Box 3.

"Company Representative" means Buyer's Representative under the Shipyard Contract.

"Contractual Date of Delivery" means the date stated in Box 9.

"Date of Delivery" means the date on which the Vessel is delivered by the Shipyard.

"Flag State" means the State of the flag as stated in Box 8.

"Makers List" means the list of suppliers and manufacturers of equipment, machinery and services stated in the Shipyard Contract.

"Shipyard" means the place or places stated in Box 5.

"Shipyard Contract" means the contract between the Company or its Affiliate and the Shipyard as may be attached under Annex A (Vessel Details), including the specification, plans and drawings and Makers List, and all modifications, amendments and supplements as agreed from time to time.

"Site Office" means the office of the Supervisors at the Shipyard.

"Specification number" means the reference number of the specification as set out in the Shipyard Contract.

"Supervision Services" means the services specified in Section 2 (Scope of Services), Clauses 4 to 7 for which the Supervisors are stated in Box 10 to be responsible therein, and all other functions performed by the Supervisors under the terms of this Agreement.

"Supervisors" means the party providing Supervision Services as identified in Box 4.

"Site Team" means the persons listed in Annex E (Site Team).

"Supervisors' Fee" means the fee for the agreed Supervision Services stated in Annex B (Schedule of Fees).

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36 “Vessel” means the vessel named in Box 6 details of which are set out in Annex A (Vessel Details)
37 attached hereto.

38 **2. Commencement and Appointment**

39 With effect from the commencement date stated in Box 2 until the completion of the Supervision
40 Services, the Company hereby appoint the Supervisors and the Supervisors hereby agree to act
41 as the Supervisors of the Vessel in respect of the Supervision Services.

42 **3. Authority of the Supervisors**

43 Subject to the terms and conditions herein provided, during the period of this Agreement, the
44 Company hereby appoints the Supervisors, and the Supervisors hereby agree to act as agents for
45 and on behalf of the Company in relation to the Supervision Services.

46 The Supervisors shall have authority to take such actions as they may from time to time in their
47 absolute discretion consider necessary to enable them to fulfil their obligations under this
48 Agreement.

49 The Company shall arrange in a timely manner any authorisations which may be necessary for the
50 Supervisors to perform the Supervision Services.

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51 **SECTION 2 – Scope of Services**52 **4. Specification Review**

53 The Supervisors shall review and advise on the specification giving consideration to the
54 Company's intended trading and operational requirements for the Vessel, and its maintenance.

55 **5. Makers List Review**

56 The Supervisors shall review and advise on the proposed list of suppliers and manufacturers of
57 equipment, machinery and services.

58 **6. Plan Approval**

59 The Supervisors' plan approval services shall comprise of the following:

60 (a) reviewing, commenting on and approving the plans and drawings submitted by the Shipyard to
61 ensure compliance with the Shipyard Contract; and

62 (b) reviewing, commenting on and approving the Shipyard's selection of suppliers and
63 manufacturers of equipment, machinery and services from the Makers List.

64 The Supervisors shall give consideration to the Vessel's intended trading and operational
65 requirements and its maintenance when carrying out plan approval.

66 **7. Site Supervision**

67 (a) The Supervisors' site supervision services shall include, but not be limited to, the following:

68 (i) providing a suitably qualified and competent Site Team comprising of the personnel as stated
69 in Annex E (Site Team) and maintaining a Site Office at the Shipyard;

70 (ii) planning and attending meetings with the Shipyard to review the construction of the Vessel
71 under the Shipyard Contract;

72 (iii) carrying out periodic inspections of the Vessel during its construction; and

73 (iv) attending tests, trials and inspections relating to the Vessel at the Shipyard and premises of
74 sub-contractors in accordance with the Shipyard Contract.

75 (b) If the Supervisors identify or become aware of any non-conformity with the Shipyard Contract
76 they shall report it to the Shipyard and the Company and shall inform the Company of the action
77 proposed or taken by the Shipyard to address and close the non-conformity.

78 (c) The Supervisors shall:

79 (i) provide their Site Team with equipment for inspections (including inspection instrumentation
80 and tools), personal protective equipment, office hardware and software as necessary;

81 (ii) liaise with the classification society and flag administration in accordance with the Shipyard
82 Contract;

83 (iii) provide assistance to the Company in supervising the receipt, storage, installation,
84 commissioning and testing of the equipment which form part of the Buyer's Supplies as per
85 the Shipyard Contract; and

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- 86 (iv) if they become aware of any changes in laws, rules, regulations and requirements of the
87 Classification Society and the Regulatory Authorities applicable to the Vessel, inform the
88 Company to consider whether or not a waiver of compliance should be sought.

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89 **SECTION 3 – Obligations**

90 **8. Supervisors' Obligations**

91 The Supervisors shall:

- 92 **(a)** perform the Supervision Services in accordance with sound industry practice for ship
93 construction supervision;
- 94 **(b)** maintain records of work carried out in performance of the Supervision Services;
- 95 **(c)** provide periodic written reports to the Company in a form and with content and frequency
96 agreed between the parties; and
- 97 **(d)** not accept any deviation from or variation to the Shipyard Contract without the prior written
98 consent of the Company.

99
100 Provided however, that in the performance of the Supervision Services, the Supervisors shall be
101 entitled to have regard to their overall responsibility in relation to all vessels as may from time to
102 time be entrusted to their supervision. In particular, but without prejudice to the generality of the
103 foregoing, the Supervisors shall be entitled to allocate available supplies, manpower and services
104 in such manner as in the prevailing circumstances the Supervisors in their absolute discretion
105 consider to be fair and reasonable.

106 **9. Company's Obligations**

107 The Company shall:

- 108 **(a)** pay all sums due to the Supervisors punctually in accordance with the terms of this Agreement.
109 In the event of payment after the due date of any outstanding sums the Supervisors shall be
110 entitled to charge interest at the rate stated in Box 12;
- 111 **(b)** provide the Supervisors with a copy of the Shipyard Contract or sufficient information thereof to
112 enable the Supervisors to perform the Supervision Services;
- 113 **(c)** notwithstanding sub-clause (b), procure that the Supervisors are provided in a timely manner
114 with a full set of plans and drawings and such other technical information as the Supervisors may
115 reasonably require, sufficient to perform the Supervision Services;
- 116 **(d)** procure that the Supervisors have access to the Shipyard, Vessel, workshops, and anywhere
117 else, including sub-contractor's premises, where work or storage of items connected with the
118 construction of the Vessel is being performed, sufficient to perform the Supervision Services; and
- 119 **(e)** communicate promptly to the Supervisors any modifications, amendments or supplements to
120 the Shipyard Contract that may materially affect the Supervision Services.

121 **SECTION 4 – Fees, Expenses and Budgets**122 **10. Supervisors' Fee and Expenses**

123 (a) The Company shall pay to the Supervisors a Supervisors' Fee as stated in Annex B (Schedule
124 of Fees) for their Supervision Services. The Supervisors' Fee shall be payable to the Supervisors'
125 nominated account stated in Box 11.

126 (b) The Supervisors shall, at no extra cost to the Company, provide their own office
127 accommodation, office staff, facilities and stationery, excluding the Site Office. Without limiting the
128 generality of this Clause 10 (Supervisors' Fee and Expenses), the Company shall reimburse the
129 Supervisors for postage and communication expenses, travelling expenses, and other out of
130 pocket expenses properly incurred by the Supervisors in pursuance of the Supervision Services.
131 Any days used by the Supervisors' personnel travelling to or from or attending on the Vessel or
132 otherwise used in connection with the Supervision Services in excess of those agreed in the
133 budget shall be charged at the daily rate stated in Annex B (Schedule of Fees).

134 **11. Budgets and Management of Funds**

135 (a) The Supervisors' budget is set out in Annex C (Supervisors' Budget) hereto.

136 (b) The Supervisors shall prepare and present to the Company their estimate of the working capital
137 requirement and shall each month request the Company in writing to pay the funds required to
138 perform the Supervision Services for the ensuing month, including the payment of any agreed
139 unbudgeted expenditure. Such funds shall be received by the Supervisors within ten (10) running
140 days after the receipt by the Company of the Supervisors' written request and shall be held to the
141 credit of the Company in a separate bank account.

142 (c) The Supervisors shall at all times maintain and keep true and correct accounts in respect of the
143 Supervision Services in accordance with the relevant International Financial Reporting Standards
144 or such other standard as the parties may agree, including records of all costs and expenditure
145 incurred, and produce a comparison between budgeted and actual expenditure in such form and at
146 such intervals as shall be mutually agreed.

147 The Supervisors shall make such accounts available for inspection and auditing by the Company
148 and/or their representatives in the Supervisors' offices or by electronic means, provided reasonable
149 notice is given by the Company.

150 (d) Notwithstanding anything contained herein, the Supervisors shall in no circumstances be
151 required to use or commit their own funds to finance the provision of the Supervision Services.

152 **SECTION 5 – Legal, General and Duration of Agreement**

153 **12. Replacement**

154 The Company may require the replacement as soon as possible of any member of the Site Team
155 found, on reasonable grounds, to be unsuitable.

156 **13. Supervisors' Right to Sub-Contract**

157 The Supervisors shall not sub-contract any of their obligations hereunder without the prior written
158 consent of the Company which shall not be unreasonably withheld. In the event of such a sub-
159 contract the Supervisors shall remain fully liable for the due performance of their obligations under
160 this Agreement.

161 **14. Responsibilities**

162 **(a) Force Majeure**

163 Neither party shall be liable for any loss, damage or delay due to any of the following force majeure
164 events and/or conditions to the extent that the party invoking force majeure is prevented or
165 hindered from performing any or all of their obligations under this Agreement, provided they have
166 made all reasonable efforts to avoid, minimize or prevent the effect of such events and/or
167 conditions:

- 168 **(i)** acts of God;
- 169 **(ii)** any government requisition, control, intervention, requirement or interference;
- 170 **(iii)** any circumstances arising out of war, threatened act of war or warlike operations, acts of
171 terrorism, sabotage or piracy, or the consequences thereof;
- 172 **(iv)** riots, civil commotion, blockades or embargoes;
- 173 **(v)** epidemics;
- 174 **(vi)** earthquakes, landslides, floods or other extraordinary weather conditions;
- 175 **(vii)** strikes, lockouts or other industrial action, unless limited to the employees (which shall not
176 include the Company's personnel) of the party seeking to invoke force majeure;
- 177 **(viii)** fire, accident, explosion except where caused by negligence of the party seeking to invoke
178 force majeure; and
- 179 **(ix)** any other similar cause beyond the reasonable control of either party.

180 **(b) Liability to the Company**

181 Without prejudice to Sub-clause 14(a), the Supervisors shall be under no liability whatsoever to the
182 Company for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect,
183 (including but not limited to loss of profit arising out of or in connection with detention of or delay to
184 the Vessel) and howsoever arising in the course of performance of the Supervision Services
185 **UNLESS** same is proved to have resulted solely from the negligence, gross negligence or wilful
186 default of the Supervisors or their employees or agents, or sub-contractors employed by them in
187 connection with the Vessel, in which case (save where loss, damage, delay or expense has
188 resulted from the Supervisors' personal act or omission committed with the intent to cause same or

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189 recklessly and with knowledge that such loss, damage, delay or expense would probably result)
190 the Supervisors' liability for each incident or series of incidents giving rise to a claim or claims shall
191 never exceed a total of ten (10) times the equivalent of the Supervisors' Fee payable hereunder or
192 such other sum as may be agreed by the parties and stated in Box 14, provided that the Company
193 shall have notified the Supervisors of such loss, damage, delay or expense, howsoever arising,
194 within twelve (12) months from the earlier of the date of delivery of the Vessel or the date of
195 termination of the Agreement under Clause 17 (Termination).

196 **(c) Supervisors' Professional Indemnity Insurance**

197 The Supervisors shall have and maintain professional indemnity insurance to meet its liability to
198 the Company under Sub-clause 14(b).

199 **(d) Indemnity**

200 Except to the extent and solely for the amount therein set out that the Supervisors would be liable
201 under Sub-clause 14(b), the Company hereby undertakes to keep the Supervisors and their
202 employees, agents and sub-contractors indemnified and to hold them harmless against all actions,
203 proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought
204 against them or incurred or suffered by them arising out of or in connection with the performance of
205 the Agreement, and against and in respect of all costs, loss, damages and expenses (including
206 legal costs and expenses on a full indemnity basis) which the Supervisors may suffer or incur
207 (either directly or indirectly) in the course of the performance of this Agreement.

208 **(e) "Himalaya"**

209 It is hereby expressly agreed that no employee or agent of the Supervisors (including every
210 sub-contractor from time to time employed by the Supervisors) shall in any circumstances
211 whatsoever be under any liability whatsoever to the Company for any loss, damage or delay of
212 whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on their
213 part while acting in the course of or in connection with their employment and, without prejudice to
214 the generality of the foregoing provisions in this Clause 14 (Responsibilities), every exemption,
215 limitation, condition and liberty herein contained and every right, exemption from liability, defence
216 and immunity of whatsoever nature applicable to the Supervisors or to which the Supervisors are
217 entitled hereunder shall also be available and shall extend to protect every such employee or agent
218 of the Supervisors acting as aforesaid and for the purpose of all the foregoing provisions of this
219 Clause 14 (Responsibilities) the Supervisors are or shall be deemed to be acting as agent or
220 trustee on behalf of and for the benefit of all persons who are or might be their servants or agents
221 from time to time (including sub-contractors as aforesaid) and all such persons shall to this extent
222 be or be deemed to be parties to this Agreement.

223 **15. General Administration**

224 **(a)** The Supervisors shall keep the Company informed in a timely manner of any incident of which
225 the Supervisors become aware which gives or may give rise to claims or disputes involving third
226 parties.

227 **(b)** On giving reasonable notice, the Company may request, and the Supervisors shall in a timely
228 manner make available, all documentation, information and records in respect of the matters
229 covered by this Agreement.

230 **(c)** On giving reasonable notice, the Supervisors may request, and the Company shall in a timely
231 manner make available, all documentation, information and records in respect of the matters
232 covered by this Agreement.

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233 **16. Compliance with Laws and Regulations**

234 The Parties shall not do or permit to be done anything which might cause any breach or
235 infringement of the laws and regulations of the Flag State and the place where the Vessel is under
236 construction or to which the Company and Supervisors are subject.

237 **17. Termination**

238 **(a)** Unless otherwise agreed, this Agreement will terminate upon completion of performance of the
239 Supervision Services which shall be deemed to occur upon delivery of the Vessel by the Shipyard
240 to the Buyer.

241 **(b)** If either party fails to meet their obligations under this Agreement, the other party may give
242 notice to the party in default requiring them to remedy it. In the event that the party in default fails
243 to remedy it within a reasonable time to the reasonable satisfaction of the other party, that party
244 shall be entitled to terminate this Agreement with immediate effect by giving notice to the party in
245 default.

246 **(c)** Notwithstanding Sub-clause 17(b), the Supervisors shall be entitled to terminate the Agreement
247 with immediate effect by giving notice to the Company if any monies payable by the Company
248 under this Agreement and/or in respect of any Associated Vessel, details of which are listed in
249 Annex D (Associated Vessels), shall not have been received within the number of days stated in
250 Clause 11(b).

251 **(d)** This Agreement shall be deemed to be terminated in the case of:

252 **(i)** the termination, transfer or novation of the Shipyard Contract; or

253 **(ii)** the Vessel becoming an actual or constructive total loss at any time prior to delivery; or

254 **(iii)** the aggregate of delays to the delivery of the Vessel by virtue of events which fall within Clause
255 14(a) (Force Majeure) and any other events exceeding the number of days stated in Box 13. If Box
256 13 is left blank then 180 days shall apply.

257 **(e)** This Agreement shall terminate forthwith in the event of an order being made or resolution
258 passed for the winding up, dissolution, liquidation or bankruptcy of either party (otherwise than for
259 the purpose of reconstruction or amalgamation) or if a receiver or administrator is appointed, or if it
260 suspends payment, ceases to carry on business or makes any special arrangement or composition
261 with its creditors.

262 **(f)** In the event of the early termination of this Agreement under Sub-clauses 17(b) to 17(e) for any
263 reason other than by default by the Supervisors, the Supervisors' Fee shall continue to be payable
264 for a further period of the number of months stated in Box 15 as from the effective date of
265 termination. If Box 15 is left blank then three (3) months shall apply. In addition, the Company shall
266 pay any costs reasonably incurred by the Supervisors as a consequence of the early termination,
267 including but not limited to severance costs which the Supervisors are legally required to pay the
268 members of the Site Team as a result of the early termination of their contracts of service, which
269 shall not exceed the amount stated in Box 15. The Supervisors shall use their reasonable
270 endeavours to minimise such costs.

271 **(g)** On the termination, for whatever reason, of this Agreement, the Supervisors shall release to the
272 Company, if so requested, all plans, drawings, technical information and other documents and
273 accounts specifically relating to the Supervision Services.

274 **(h)** The termination of this Agreement shall be without prejudice to all rights accrued due between

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275 the parties prior to the date of termination.

276 **18. BIMCO Dispute Resolution Clause 2016**

277 **(a)*** This Agreement shall be governed by and construed in accordance with English law and any
278 dispute arising out of or in connection with this Agreement shall be referred to arbitration in London
279 in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof
280 save to the extent necessary to give effect to the provisions of this Clause.

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

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

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

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

299 **(b)*** This Agreement shall be governed by U.S. maritime law or, if this Agreement is not a maritime
300 contract under U.S. law, by the laws of the State of New York. Any dispute arising out of or in
301 connection with this Agreement shall be referred to three (3) persons at New York, one to be
302 appointed by each of the parties hereto, and the third by the two so chosen. The decision of the
303 arbitrators or any two of them shall be final, and for the purposes of enforcing any award, judgment
304 may be entered on an award by any court of competent jurisdiction. The proceedings shall be
305 conducted in accordance with the SMA Rules current as of the date of this Agreement.

306 In cases where neither the claim nor any counterclaim exceeds the sum of USD 100,000 (or such
307 other sum as the parties may agree) the arbitration shall be conducted in accordance with the SMA
308 Rules for Shortened Arbitration Procedure current as of the date of this Agreement.

309 **(c)*** This Agreement shall be governed by and construed in accordance with Singapore**/English**
310 law.

311 Any dispute arising out of or in connection with this Agreement, including any question regarding
312 its existence, validity or termination shall be referred to and finally resolved by arbitration in
313 Singapore in accordance with the Singapore International Arbitration Act (Chapter 143A) and any
314 statutory modification or re-enactment thereof save to the extent necessary to give effect to the
315 provisions of this Clause.

316 The arbitration shall be conducted in accordance with the Arbitration Rules of the Singapore
317 Chamber of Maritime Arbitration (SCMA) current at the time when the arbitration proceedings are
318 commenced.

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

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

331 In cases where neither the claim nor any counterclaim exceeds the sum of USD 75,000 (or such
332 other sum as the Parties may agree) the arbitration shall be conducted before a single arbitrator in
333 accordance with the SCMA Small Claims Procedure current at the time when the arbitration
334 proceedings are commenced.

335 **(d)*** This Agreement shall be governed by and construed in accordance with the laws of the place
336 mutually agreed by the Parties and any dispute arising out of or in connection with this Agreement
337 shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable
338 there.

339 **(e)** Save in respect of Sub-clause (b), the parties may agree at any time to refer to mediation any
340 difference and/or dispute arising out of or in connection with this Agreement. In the case of any
341 dispute in respect of which arbitration has been commenced under Sub-clause (a), (c) or (d), the
342 following shall apply:

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

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

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

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

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

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

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

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

369 * Sub-clauses (a), (b), (c) and (d) are alternatives; indicate alternative agreed in Box 16. If Box 16
370 is not filled in, then sub-clause (a) of this Clause shall apply. Sub-clause (e) shall apply in all cases
371 except for alternative (b).

372 ** Singapore and English law are alternatives; if Sub-clause (c) agreed also indicate choice of
373 Singapore or English law. If neither or both are indicated, then English law shall apply by default.

374 **19. Notices**

375 (a) All notices given by either party or their agents to the other party or their agents in accordance
376 with the provisions of this Agreement shall be in writing and shall, unless specifically provided in
377 this Agreement to the contrary, be sent to the address for that other party as set out in Boxes 17
378 and 18 or as appropriate or to such other address as the other party may designate in writing.

379 A notice may be sent by registered or recorded mail, facsimile, electronically or delivered by hand
380 in accordance with this Sub-clause 19(a).

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

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

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

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

386 In each case, proof of posting, handing in or transmission shall be proof that notice has been
387 given, unless proven to the contrary.

388 **SECTION 6 – General**

389 **20. Entire Agreement**

390 The written terms of this Agreement comprise the entire agreement between the Company and the
391 Supervisors in relation to the Supervision Services and supersede all previous agreements
392 whether oral or written between the Parties in relation thereto.

393 Each of the Parties acknowledges that in entering into this Agreement it has not relied on and shall
394 have no right or remedy in respect of any statement, representation, assurance or warranty
395 (whether or not made negligently) other than as is expressly set out in this Agreement.

396 Any terms implied into this Agreement by any applicable statute or law are hereby excluded to the
397 extent that such exclusion can legally be made. Nothing in this Clause shall limit or exclude any
398 liability for fraud.

399 **21. Third Party Rights**

400 Except to the extent provided in Sub-clauses 14(d) (Indemnity) and 14(e) (“Himalaya”), no third
401 parties may enforce any term of this Agreement.

402 **22. Partial Validity**

403 If any provision of this Agreement is or becomes or is held by any arbitrator or other competent
404 body to be illegal, invalid or unenforceable in any respect under any law or jurisdiction, the
405 provision shall be deemed to be amended to the extent necessary to avoid such illegality, invalidity
406 or unenforceability, or, if such amendment is not possible, the provision shall be deemed to be
407 deleted from this Agreement to the extent of such illegality, invalidity or unenforceability, and the
408 remaining provisions shall continue in full force and effect and shall not in any way be affected or
409 impaired thereby.

410 **23. Interpretation**

411 In this Agreement:

412 **(a) Singular/Plural**

413 The singular includes the plural and vice versa as the context admits or requires.

414 **(b) Headings**

415 The index and headings to the clauses and appendices to this Agreement are for convenience only
416 and shall not affect its construction or interpretation.

417 **(c) Day**

418 “Day” means a calendar day unless expressly stated to the contrary.

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SUPERMAN - ANNEX D (ASSOCIATED VESSELS)

NOTE: PARTIES SHOULD BE AWARE THAT BY COMPLETING THIS ANNEX D THEY WILL BE SUBJECT TO THE PROVISIONS OF SUB-CLAUSE 17(c) OF THIS AGREEMENT.

Date of Agreement:

Details of Associated Vessels:

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