

Dated

2022

HIS EXCELLENCY VICE ADMIRAL SIR DAVID GEORGE STEEL,  
KNIGHT COMMANDER OF THE MOST EXCELLENT ORDER OF  
THE BRITISH EMPIRE, DEPUTY LIEUTENANT,  
GOVERNOR OF THE CITY OF GIBRALTAR  
FOR AND ON BEHALF OF HER MAJESTY THE QUEEN

- and -

BALAENA PROPCO LIMITED

- and -

BALAENA LTD

## **LEASE**

Premises

the property situate at Rosia Road,  
The Dockyard, Gibraltar  
part of Crown Property No. 1540

**Hassans**

**Madison Building**

**Midtown, Gibraltar**

## PARTICULARS

<b>1</b>	<b>Date</b>	2022
<b>2</b>	<b>Parties</b>	
<b>2.1</b>	<b>Landlord</b>	His Excellency Vice Admiral Sir David George Steel, Knight Commander Of The Most Excellent Order Of The British Empire, Deputy Lieutenant, Governor of the City of Gibraltar (acting on the advice of the Chief Minister in accordance with Section 75(1) of the Constitution of Gibraltar) for and on behalf of Her Majesty the Queen
<b>2.2</b>	<b>Tenant</b>	Balaena PropCo Limited a company incorporated in Gibraltar with number 121979 with its registered office situate at 6.20 World Trade Center, 6 Bayside Road, Gibraltar, GX1 11AA
<b>2.3</b>	<b>Guarantor</b>	Balaena LTD a company incorporated in England & Wales with number 12030661 with its registered office situate at The Gaia Energy Centre, Delabole, Cornwall, England, PL33 9DA
<b>4</b>	<b>Premises</b>	ALL THAT piece or parcel of land situate on the west side of Rosia Road containing in the whole 97,511 square metres or thereabouts and being Crown Property No. 1540 (part) in the General Plan of the City of Gibraltar the position and extent thereof is for identification purposes only particularly delineated in red on the plan annexed hereto together with all buildings structures installations and erections thereon including the Main Wharf and the three dry docks known as the Prince of Wales Dock No.1 The Queen Alexandra Dock No.2 the King Edward Dock No.3 together with the ducting and penstock and the Workshop Building and the Pump House and all additions (if any) to the Premises or any part thereof during the Term EXCEPTING AND RESERVING from the demise the area of 922 square metres forming part of the road required to provide access to Queensway Road for the purposes of the road configuration as shown for identification purposes only hatched in green on the plan annexed to this Lease but not the voids marked C and D thereunder
<b>5</b>	<b>Principal Rent</b>	The rent as calculated and determined in accordance with Clause 3 of this Lease subject to review
<b>6</b>	<b>Contractual Term</b>	35 years from and including the date hereof
<b>7</b>	<b>Rent Review Dates</b>	2029 and every third anniversary of it
<b>8</b>	<b>Permitted Use</b>	as a shipyard for the purpose of environmentally driven and/or managed social and good governance conscious ship repairs, ship conversions and shipbuilding and/or for the production, build, maintenance and support of non-metallic floating offshore utility platforms focussed on renewable energy solutions and other activities incidental and complimentary thereto including offices and stores associated with these uses

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## BACKGROUND

- A. By the Expired Lease the property more particularly delineated on the plan annexed thereto was demised to the Tenant for the term of 20 years from the 11<sup>th</sup> day of March 1998 together with the easements rights and privileges set out in the Expired Lease subject to the payment of the rent and to the performance and observance of the covenants and conditions reserved and contained in the Expired Lease.
- B. On or about the date of this Lease but before the execution of this Lease, the Tenant has entered into a deed of surrender in respect of the release and surrender of its estate title and interest in the premises demised by the Expired Lease to the Landlord to the intent that the term thereby created shall be extinguished in the reversion immediately expectant thereon.
- C. The business intended to be carried out at the Premises within the Permitted Use will be focussed on renewable energy. The Tenant (or a Group Company as the case may be) will design, produce and maintain floating offshore utility platforms that use 100% renewable energy to deliver utility services to islands and coastal communities around the world. The Tenant and its Group Companies are desirous of establishing themselves in Gibraltar and developing this renewable technology business from the Premises.
- D. The Tenant (or a Group Company as the case may be) has agreed to upgrade the existing shipyard to be more environmental, social and good governance conscious.
- E. The dockyard and the main wharf demised under the Expired Lease are a key asset that provides economic diversification to Gibraltar. The renewable technology business is consistent with the socio-economic and environmental objectives of Her Majesty's Government of Gibraltar.
- F. The Landlord has agreed with the Tenant for the grant to the Tenant of this Lease of the Premises for the consideration at the rent and on the terms and conditions set out and contained in this Lease.

**This Lease** made in triplicate on the date and between the parties specified in the Particulars **Witnesses** as follows:

## 1. Definitions and Interpretation

In this Lease unless the context otherwise requires:

### 1.1 Definitions

**Apprenticeship Scheme** means a youth education program focussed on engineering and advanced engineering centred on the Permitted Use training a minimum of 10 Gibraltar Residents per calendar year established at the sole cost of the Tenant and/or Group Company by no later than the second anniversary of the Term and delivered to the Landlord's reasonable satisfaction;

**Base Rate** means the base lending rate from time to time of Royal Bank of Scotland plc trading as NatWest (Gibraltar Branch) or, if not available, such comparable rate of interest as the Landlord shall reasonably require;

**Best Industry Practice** means the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Permitted Use carried out at the Premises or the relevant part of them, having regard to factors such as the nature and size of the parties and any other relevant factors including the costs and environment in Gibraltar for doing business.

**Ceiling Rent** means the sum of TWO MILLION FIVE HUNDRED AND SIXTY-EIGHT THOUSAND POUNDS (£2,568,000.00) per annum subject to increase in accordance with the provisions of Clause 3.5 of this Lease;

**Certifications** means the latest Health and Safety Certificate ISO45001, the Certificate for Environmental Management ISO 14001 and the Certificate for Quality Management ISO 9001, and such other environmental safety governance certification standards that may be issued by the International Standards Organisation and relate to the Permitted Use as may be updated from time to time throughout the Term.

**Companies Act** means the Companies Act 2014 and includes any statutory modification or re-enactment;

**Conduit** means any existing or future media for the passage of substances or data including but not limited to cistern, tanks, sewers, drains, pumps, pipes, wires and ducts and any ancillary apparatus attached to them and any enclosures for them excluding the Reserved Services;

**Contractual Term** means the term specified in the Particulars;

**Control** means the power to directly or indirectly (a) cast, or control the casting of over 50% of the maximum number of votes that might be cast at a general meeting of a company; or (b) appoint or remove the majority of the directors of a company; or (c) control or give directions with respect to the operating and financial policies of a company with which the directors of such company are obliged to comply;

**Daylight Hours** means 8am to 8pm;

**Environment** means natural and man-made environment including the following media, air (including air within buildings and other natural or man-made structures above or below the ground), water (including coastal and inland waters and water under or within land and water in drains and sewers) and land (including without limitation land under water) and any living organisms including humans, animals and plants including the ecological systems of which they form part supported by those media

**Environmental KPIs** means to carry out the trade or business at the Premises in accordance with the following:

- (i) in full and proper compliance with the highest environmental standards, including, without limitation, the Certifications, including, for the avoidance of doubt, meeting and maintaining the Certifications;
- (ii) in full and proper compliance with all applicable Gibraltar and European laws (from time to time) relating to the pollution or protection of the Environment;
- (iii) in a manner that is consistent with Best Industry Practice from the perspective of the enhancing of the protection of the Environment and the minimising of all and any pollution to the Environment;

- (iv) in a manner that utilises the best available technology from time to time; and
- (v) in a manner that does not pose any health risk to the tenants and occupiers of any and all adjacent, neighbouring or surrounding land or property;

**Environmental Law** means all applicable laws, statutes, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, and legally binding codes of practice and guidance notes (as amended from time to time) in so far as they relate to the protection of the Environment and/or Environmental Matters in force as at the date hereof and from time to time;

**Environmental Matters** means any (a) manufacture, generation, deposit, disposal or arranging for disposal, keeping, storage, treatment, emission, release, discharge, leaching, transportation, transmission, handling, use or presence of any hazardous substance or waste that causes or may cause harm or damage to the Environment; (b) nuisance or (c) pollution, contamination, conservation or protection of the Environment;

**Expert** means (i) an independent expert accountant nominated by agreement or in default by the President of the Institute of Chartered Accountants or (ii) an independent expert surveyor nominated by agreement or in default by the President of the Royal Institution of Chartered Surveyors who shall be resident in either Gibraltar (unless they are consanguineous to or in any way linked (commercially or otherwise) to the Landlord the Tenant or the Guarantor) or in England or Wales or (iii) an independent expert environmental professional nominated by agreement or in default by the Chairperson of the Society for the Environment who shall be resident in England or Wales;

**Expired Lease** means the lease dated the 11<sup>th</sup> day of March 1998 made between the Landlord and Gibdock Limited (previously known as Cammell Laird Limited) as tenant and Cammell Laird Holdings plc as guarantor as varied by a deed of variation dated the 15<sup>th</sup> day of October 2009 and as further varied by a deed of variation dated the 24<sup>th</sup> day of June 2015 together with all such other documents (if any) supplemental or ancillary thereto;

**Extenuating Works Licence** means a licence for works in extenuating circumstances which may involve blasting, painting or spraying outside the Daylight Hours in the form set out in the Fourth Schedule;

**Financial KPI** means the following financial target the Tenant and/or a Group Company paying at least ONE MILLION SEVEN HUNDRED AND FIFTY THOUSAND POUNDS (£1,750,000.00) per annum (as increased by the percentage by which the Index shall have increased since the previous year) (the "**Tax Target**") in corporate tax, employer social insurance contributions and PAYE in Gibraltar by the end of the tax year following each anniversary of the Term provided always that the Tenant and/or Group Company shall not be deemed to be in breach of the Tax Target if it can demonstrate in writing that it has paid the sum set out in Clause 4.21.7;

**Force Majeure Event** means any of the following events which are beyond the reasonable control of the Tenant or a Group Company: acts of God, accident, riots, terrorist acts, epidemic, pandemic; quarantine, civil commotion, natural catastrophes, changes in laws or regulations, national strike, fire, explosion or generalised lack of availability of raw materials or energy. For the avoidance of doubt, a Force Majeure Event shall not extend to or include the following: financial distress nor the inability of the Tenant, the Guarantor or a Group Company to make a profit or avoid a financial loss, adverse changes in market prices or conditions, the Tenant's or the Guarantor's or a Group Company's financial inability to perform its obligations under the Lease, or war or war on terrorism;



**Gibraltar Resident** means a person who:

- (i) holds a valid Gibraltar ID card registered at an address in Gibraltar; or
- (ii) is registered under the Register of Property Occupation Act 2021.

**Group Company** means a company which is a subsidiary of the Tenant or the Guarantor and any subsidiary of any subsidiary of the Tenant or the Guarantor and any holding company of the Tenant or the Guarantor which owns shares in the Tenant or the Guarantor and any holding company of the Tenant or the Guarantor which has Control over the Tenant or the Guarantor and any subsidiary of the Tenant or the Guarantor over which the Tenant has Control and any subsidiary of any such holding company of the Tenant or the Guarantor from time to time and any company which is a member of the same group of companies within the meaning of Section 62 of the Landlord and Tenant Act including any parent, subsidiary or other company having the same shareholders or ultimate beneficiaries either directly or indirectly as the Tenant or the Guarantor;

**Guarantor** means the person so named in the Particulars (and in the case of an individual includes their personal representatives) (if any);

**Index** means the index of retail prices shown in the index produced by the Government of Gibraltar to show movements in prices of commodities and services or in the cost of living in Gibraltar or such other index as may be designated by the Government of Gibraltar in replacement of that index.

**Insured Risks** means loss or damage or destruction by fire, explosion, earthquake, lightning, aircraft and other aerial devices or articles dropped therefrom, riot, civil commotion, malicious damage, subsidence, heave, rock falls, landslip, glass breakage and other accidental damage, storm or tempest, bursting or overflowing of water tanks apparatus or pipes, flood, impact by road vehicles, accidental injury to third parties, business interruption, war, terrorism, and such other risks as the Landlord may in its absolute discretion require and **Insured Risk** means any of them;

**Landlord** means His Excellency the Governor of the City of Gibraltar (acting on the advice of the Chief Minister in accordance with Section 75(1) of the Constitution of Gibraltar) for and on behalf of Her Majesty the Queen and/or his predecessors and successors in office as the context shall require or such other person entitled to the immediate reversion to this Lease;

**Landlord's Fixtures and Fittings** means the lessor's fixtures and fittings set out in the Sixth Schedule to this Lease as may be amended from time to time;

**Landlord's Representative** means the Managing Director of the Surveyor, or such other party as the Landlord may designate in writing to the Tenant and the Guarantor;

**Land Titles Act** means the Gibraltar Land Titles Act 2011 and includes any statutory modification or re-enactment;

**Land Titles Register** means the register of deeds relating to land in Gibraltar administered by the Surveyor;

**Landlord and Tenant Act** means the Landlord and Tenant Act 1983 and includes any statutory modification or re-enactment;

**Law of Property Act** means the Conveyancing and Law of Property Act 1881 and includes any statutory modification or re-enactment;

**this Lease** means this lease and any document supplemental to it or entered into pursuant or ancillary to it;

**Main Wharf** means the wharf known as the main wharf comprising berth no. 43 and berth no. 44 measuring approximately 278 metres in length to the west of the Workshop Building as shown for identification purposes only hatched in blue on the plan annexed to this Lease;

**Market Rent** means ONE MILLION TWO HUNDRED AND EIGHTY-FOUR THOUSAND POUNDS (£1,284,000.00) per annum being the rent commensurate to the open market commercial rental value of the Premises (as such value has been agreed by the Tenant) subject to increase in accordance with the provisions of Part II of the Second Schedule to this Lease;

**Mortgagee** means any bank or lending institution, or regulated debt fund / a wholly owned subsidiary thereof (or its security agent or trustee) of good repute which is incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and that has been approved by the Landlord in accordance with Clause 4.10.7 of the Lease and the Landlord has received a copy of the mortgage pursuant to Clause 4.12.2 and which has the benefit of any mortgage or charge by way of security in respect of any shares and/or assets in any member of the Tenant Group or in any Owner (whether as lender or agent or trustee for a group of banks or lending institutions or debt funds or otherwise) and the term "Mortgagee" shall include a Mortgagee Group Company;

**Mortgagee Group Company** means a company which:

- (i) is Controlled by the same person that Controls the Mortgagee and evidence to this effect in form and substance satisfactory to the Landlord has been provided to the Landlord;
- (ii) is incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction, and
- (iii) has been approved by the Landlord in writing and the Landlord hereby agrees that, provided full compliance with (i) and (ii) above, if it does not respond to an application for approval of a company within twenty (20) Working Days it shall be deemed to have approved the company;

**Operating Company** means any company operating its business from the Premises whose shares are directly or indirectly owned by any Group Company;

**Operational KPIs** means the following operational targets:

- (i) the Tenant and/or the Operating Company and/or a Group Company maintaining the Apprenticeship Scheme; and
- (ii) the Tenant and/or the Operating Company and/or a Group Company maintaining a minimum of at least 75 Gibraltar Residents as full-time employees registered with the Department of Employment on permanent contracts for a minimum fixed term of one calendar year each working an average of at least 39 hours per week PROVIDED ALWAYS that the Tenant and/or Group Company and/or Operating Company shall not be deemed to be in breach of this target if it can demonstrate in writing to the Landlord's reasonable satisfaction that the target has not been met due to:
  - (a) Gibraltar Residents being offered full-time employment on terms that are consistent with industry standard or, where applicable, no less favourable than the terms contracted by the Tenant and/or the Operating Company and/or a Group Company with other employees for similar roles but such offers not being accepted

within 20 Working Days of the offers being made in the relevant reporting quarter OR

(b) no applications have been received from Gibraltar Residents in the relevant reporting quarter provided always that the vacancy was advertised in Gibraltar by the Tenant and/or the Operating Company and/or a Group Company and that the vacancy was properly registered with the Department of Employment OR

(c) due to administrative delays between resignations and acceptance of offers in the relevant reporting quarter OR

(d) provided always that the Tenant and/or the Operating Company and/or a Group Company has used its best endeavours to meet this target, in the reasonable opinion of the Tenant and/or the Operating Company and / or the Group Company, there being no available suitably trained or qualified Gibraltar Residents in the relevant quarter provided that the Tenant and/or the Operating Company and/or Group Company take reasonable steps to provide training/qualifications to Gibraltar Residents;

**Owner** means any person who or company which is the shareholder (whether directly or indirectly) of the Tenant Holding Company and/or any person who or company which is the ultimate beneficial owner (whether directly or indirectly) of the Tenant Group;

**Particulars** means the descriptions and terms on the page headed **Particulars** which forms part of this Lease;

**Planning Acts** means Town Planning Act 2018, Public Health Act 1950, Development Aid Act 1981, Building Regulations 1984 and Building Rules 1997 and includes any statutory modification or re-enactment, together with the Town Planning Regulations;

**Permitted Use** means the use specified in the Particulars;

**Permitted Jurisdictions** means the jurisdictions listed in the Fifth Schedule to this Lease;

**Premises** means the premises described in the Particulars and each and every part of them including all external and structural parts including roofs foundations external and load bearing walls the main concrete decks columns and beams and fences and external cladding and includes the interior faces of the boundary walls marked A on the plan annexed to this Lease, all other boundary walls and the sea walls and any alteration or addition to it or replacement of it all of which is for identification purposes only shown delineated in red on the plan annexed to this Lease;

**Principal Rent** means the rent payable by the Tenant in accordance with Clause 3 of this Lease;

**Pump House** means the building delineated in red for identification purposes only on the plan annexed to this Lease

**Quarter Days** means 1<sup>st</sup> February, 1<sup>st</sup> May, 1<sup>st</sup> August and 1<sup>st</sup> November in every year and **Quarter Day** means any of them;

**Reduced Rent** means FIVE HUNDRED THOUSAND POUNDS (£500,000.00) per annum subject to increase in accordance with the provisions of Part II of the Second Schedule to this Lease;

**Reserved Services** means all those sewers drains channels pipes conduits and cables (including substations and transformers) on or in or under the Premises the approximate lines and position whereof are shown marked in brown on the plan annexed to this Lease

TOGETHER WITH any and all sewers drains channels pipes conduits and cables (including substations and transformers) on or in or under the Premises which are not identified on the plan annexed to this Lease but which are existing as at the date of this Lease and held used or enjoyed by the Ministry of Defence and/or the Landlord;

**Review Dates** mean the rent review dates specified in the Particulars and **Review Date** means any one of them;

**Shareholding** means the legal or beneficial ownership of any of the shares in a company (or, as the context requires, companies ) in the Tenant Group;

**Stepped Rent** means the rent calculated in accordance with the Second Schedule as payable in accordance with Clause 3 of this Lease;

**Superyacht** means a professionally crewed motor or sailing yacht that is more than 24m in length at the waterline ;

**Surveyor** means Land Property Services Limited of 50 Town Range, Gibraltar property advisors to HM Government of Gibraltar;

**Tenant** means the person so named in the Particulars, and includes successors in title and assigns;

**Tenant Holding Company** means any company who directly owns the shares in the Tenant;

**Tenant Group** means (a) the Tenant (b) the Tenant Holding Company, and (c) any company whose shares are directly or indirectly owned by the Tenant Holding Company;

**Tenant's Fixtures and Fittings** means the assets set out and particularised in the Seventh Schedule of this Lease

**Tenant's Representative** means the Chief Executive Officer from time to time of the Tenant, the Guarantor or a Group Company or, if no such role exists, a director of the Tenant, the Guarantor or a Group Company;

**Term** means the Contractual Term stated in the Particulars, together with any continuation of the term or the tenancy (whether by statute, common law, holding over or otherwise);

**Town Planning Regulations** means the Town Planning (General Procedures) Regulations 2019 (as originally made);

**Working Day** means any day from Monday to Friday (inclusive) other than any public holiday in Gibraltar;

**Workshop Building** means the building delineated in red for identification purposes only on the plan annexed to this Lease;

## **1.2 Interpretation**

**1.2.1** If the Tenant or the Guarantor are more than one person then their respective covenants are joint and several;

- 1.2.2** Unless otherwise specified, any reference to statute includes a reference to any present or future applicable Gibraltar or European Union law legislation, regulation or directive and any modification, extension or re-enactment of it or them and all subordinate legislation and any orders, regulations, directions, notices, codes of practice, schemes, guidance and rules made under it or them;
- 1.2.3** Any covenant by the Tenant not to do any act or thing includes an obligation not to permit or suffer such act or thing to be done and to use its best endeavours to prevent it being done;
- 1.2.4** If the Landlord reserves rights of access or other rights over or in relation to the Premises then those rights extend to persons authorised by it;
- 1.2.5** References to the act or default of the Tenant include acts or defaults or negligence of any undertenant, or of anyone at the Premises with the Tenant's or any undertenant's permission or sufferance with actual or implied authority of either of them;
- 1.2.6** The clause, schedule and paragraph headings in this Lease are for ease of reference only;
- 1.2.7** References to assignment include any change in the Owner and/or change of Shareholding of the Owner that would result in a change of Control of the Tenant Group and/or any change of Shareholding of the Tenant Group that would result in a change of Control of the Tenant Group. In such cases, references to assignee include the new Owner and/or the transferee of the Shareholding (where applicable);
- 1.2.8** References to Costs include all liabilities, claims, demands, proceedings, damages, losses and reasonable and proper costs and expenses (including any solicitors' fees or other professionals' costs, expenses and disbursements).
- 1.2.9** A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established, including a foundation, limited partnership, limited liability partnership or otherwise, and shall, for these purposes only, also include a partnership and a person.
- 1.2.10** A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 2 of the Companies Act 2014 and a company shall be treated as a member of another company even if its shares in that other company are registered in the name of:
- (a) another person (or its nominee) by way of security or in connection with the taking of security; or
  - (b) its nominee.

## **2 Demise**

The Landlord DEMISES the Premises to the Tenant for the Contractual Term, TOGETHER with the easements rights and privileges set out in Part I of the First Schedule, EXCEPT AND RESERVING unto the Landlord and the Ministry of Defence as mentioned in Part II

of the First Schedule, subject to all rights enjoyed by the adjoining property and any neighbouring property over the Premises.

### **3 Rent**

The Tenant covenants to pay by way of rent during the Term without any deduction withholding counterclaim or set off by banker's standing order (or by any other method that the Landlord requires at any time by giving written notice to the Tenant) the Principal Rent by equal quarterly payments in advance of the Quarter Days. The first payment for the period from and including the commencement of the Term to (but excluding) the next Quarter Day to be made on the date of this Lease. The Principal Rent payable by the Tenant to the Landlord shall be as follows;

#### **3.1 Stepped Rent**

**3.1.1** By virtue of the Tenant's intention to upgrade the existing shipyard to be more environmental, social and good governance conscious consistent with the socio-economic and environmental objectives of Her Majesty's Government of Gibraltar and, for as long as the Tenant is meeting the Environmental KPIs, the Operational KPIs and the Financial KPI to the Landlord's satisfaction, for as long as Balaena PropCo Limited as original tenant remains the original tenant, from the date of commencement of this Lease to (but excluding) the first Review Date, the Principal Rent shall be the Stepped Rent which shall be calculated and determined and payable in accordance with the Second Schedule unless the Landlord serves notice on the Tenant in accordance with Clause 3.3 and/or Clause 3.4 of this Lease;

**3.1.2** The Tenant hereby agrees that if a new tenancy is granted by virtue of any statutory rights under the Landlord and Tenant Act which the Tenant may have at the relevant time, any new tenancy will not contain provisions equivalent, or similar, to this Clause 3.1 and Part I of the Second Schedule will not apply to any such new tenancy so granted;

#### **3.2 Reduced Rent**

**3.2.1** By virtue of the Tenant's intention to upgrade the existing shipyard to be more environmental, social and good governance conscious consistent with the socio-economic and environmental objectives of Her Majesty's Government of Gibraltar and, for as long as the Tenant is meeting the Environmental KPIs, the Operational KPIs and the Financial KPI to the Landlord's satisfaction, from the first Review Date for the remainder of the Term, the Principal Rent shall be the Reduced Rent as increased in accordance with the provisions of Part II of the Second Schedule unless the Landlord serves notice on the Tenant in accordance with Clause 3.3 and/or Clause 3.4 of this Lease;

**3.2.2** The Tenant hereby agrees that if a new tenancy is granted by virtue of any statutory rights under the Landlord and Tenant Act which the Tenant may have at the relevant time, any new tenancy will not contain provisions equivalent, or similar, to this Clause 3.2.

#### **3.3 Market Rent**

**3.3.1** If the Tenant is in breach of any one or more of the Environmental KPIs and/or any one or more of the Operational KPIs and/or the Financial KPI such that the Tenant is unable to operate the business carried out at the Premises in accordance with

the expectations and the socio-economic and environmental objectives of Her Majesty's Government of Gibraltar (as such inability is determined by the Landlord acting by the Surveyor acting reasonably) and the Landlord has not received notice of a Force Majeure Event, the Landlord may serve notice on the Tenant requiring the breach or breaches to be remedied prior to the exercise of the Landlord's other rights, including those in Clause 7, and if the breach or breaches have not been remedied within a period of six (6) months, then the Principal Rent payable by the Tenant shall be the Market Rent as from the date of the expiry of the period set out in the Landlord's notice up to and including the date on which the breach has been remedied by the Tenant to the Landlord's satisfaction after which the Principal Rent will revert to the Stepped Rent or the Reduced Rent as applicable at the time of remedy as may be increased in accordance with the Second Schedule of this Lease;

**3.3.2** The Tenant hereby acknowledges and agrees that the Market Rent is proportionate to the Landlord's legitimate interest by virtue of the Tenant's failure to meet any one or more of the Environmental KPIs and/or any one or more of the Operational KPIs and/or the Financial KPI having regard to the detriment to the people of Gibraltar and the Environment in light of the breach of the socio-economic and environmental objectives of Her Majesty's Government of Gibraltar and that the Market Rent shall be binding and enforceable against the Tenant. The Tenant hereby acknowledges and agrees that, having regard to the provisions relating to the rent payable in this Lease, the Market Rent shall not be construed to be a penalty and the Tenant hereby waives all and any rights it may have in this regard;

**3.3.3** If the Landlord has received notice of a Force Majeure Event from the Tenant, the Landlord shall not be entitled to serve notice under this Clause 3.3 during any period of disruption arising from the Force Majeure Event agreed by the Landlord unless and until the period of twelve (12) months has elapsed from the date of the said notice.

### **3.4 Ceiling Rent**

**3.4.1** If the Tenant is in persistent breach of any one or more of the Environmental KPIs, and/or any one or more of the Operational KPIs and/or the Financial KPI in having failed to remedy the breaches the subject of a notice under Clause 3.3.1 of this Lease within a further period of six (6) months from the date of the expiry of the period set out in the Landlord's notice under Clause 3.3.1 of this Lease such that it is unable to operate the business carried out at the Premises in accordance with the expectations and the socio-economic and environmental objectives of Her Majesty's Government of Gibraltar (as such inability is determined by the Landlord acting by the Surveyor at its sole discretion) and the Landlord has not received notice of a Force Majeure Event, then the Principal Rent payable by the Tenant shall be the Ceiling Rent from the date of the expiry of the applicable further period stipulated in this Clause 3.4.1 until such time as the breach has been remedied by the Tenant to the Landlord's satisfaction after which the Principal Rent will revert to the Stepped Rent or the Reduced Rent as applicable at the time of remedy as may be increased in accordance with the Second Schedule of this Lease;

**3.4.2** The Tenant hereby acknowledges and agrees that the Ceiling Rent is proportionate to the Landlord's legitimate interest by the Tenant's failure to meet the Environmental KPIs, Operational KPIs and/or the Financial KPI having regard to the significant detriment to the people of Gibraltar and the Environment in light of the persistent breach of the socio-economic and environmental objectives of Her

Majesty's Government of Gibraltar and that the Ceiling Rent shall be binding and enforceable against the Tenant. The Tenant hereby acknowledges and agrees that, having regard to the provisions relating to the rent payable in this Lease, the Ceiling Rent shall not be construed to be a penalty and the Tenant hereby waives all and any rights it may have in this regard;

**3.4.3** The Landlord hereby agrees that unless for any reason (notwithstanding the provisions of Clause 3.3.2) the Market Rent is not binding or enforceable against the Tenant or the Market Rent is construed to be a penalty, during the period of twelve (12) months after the service of the Landlord's notice in Clause 3.3.1, the Landlord's other rights, including those in Clause 7, shall be deemed to be waived subject to the Market Rent actually being paid to the Landlord in accordance with the provisions of Clause 3.3.1. For the avoidance of doubt, save as waived as provided for in this Clause 3.4.3, the Landlord's right under this Clause 3.4 shall be entirely without prejudice to the Landlord's other rights, including those under Clause 7, and shall be in addition to and not in substitution thereof;

**3.4.4** If the Landlord has received notice of a Force Majeure Event from the Tenant, the Landlord shall not be entitled to serve notice under this Clause 3.4 during any period of disruption arising from the Force Majeure Event agreed by the Landlord unless and until the period of twelve (12) months has elapsed from the date of the said notice.

### **3.5 Additional Rent**

In addition to the Principal Rent, the Tenant agrees to pay to the Landlord in the manner aforesaid the following amounts:

**3.5.1** the sums specified in Clause 4.1 (interest);

**3.5.2** any sums due under Clause 6.2 (insurance); and

**3.5.3** all Costs incurred by the Landlord arising from or in connection with any breach of the Tenant's covenants in this Lease;

## **4 Tenant's covenants**

The Tenant covenants with the Landlord throughout the Term, or until released by law, as follows:

### **4.1 Interest**

If the Landlord does not receive any sum due and payable to it from the Tenant within 21 (twenty-one) Working Days of the due date (whether formally demanded or not), to pay on demand interest on such sum at 3 (three) per cent above Base Rate from the due date until payment (both before and after any judgment), provided this Clause 4.1 shall not prejudice any other right or remedy for the recovery of such sum;

### **4.2 Outgoings**

To pay all existing and future rates, taxes, charges, duties, assessments and outgoings in respect of the Premises (whether assessed or imposed on the owner or occupier);



### **4.3 Utilities**

- 4.3.1** To pay for all electricity, water, telephone, communications and other utilities used on the Premises;
- 4.3.2** To cease to use the Gibraltar Electricity Authority 60Hz generated supply through the use of temporary generators and transformers at the Tenant's sole cost within seventy (70) Working Days of the date of commencement of this Lease;
- 4.3.3** To provide shore power (cold ironing) for all vessels calling within the Premises by no later than the third anniversary of the commencement of the Term and to ensure that all vessels calling at the Premises use shore power;

### **4.4 Repair**

- 4.4.1** To put all interior and exterior parts of the Premises and the Landlord's Fixtures and Fittings (if any) (but excluding any buildings or installations which are the property of the Ministry of Defence) in good and substantial marketable and tenantable repair and condition by the third anniversary of the commencement of the Term;
- 4.4.2** To keep and maintain all interior and exterior parts of the Premises and the Landlord's Fixtures and Fittings (if any) (but excluding any buildings or installations which are the property of the Ministry of Defence) in good and substantial marketable and tenantable repair and condition;
- 4.4.3** To make good any disrepair within three (3) months after the date the Tenant receives written notice from the Landlord (or sooner if the Landlord requires);
- 4.4.4** If the Tenant fails to comply with any such notice the Landlord may on reasonable notice (except in an emergency) enter and carry out the work, and the cost shall be reimbursed by the Tenant on demand as a debt (without prejudice to the Landlord's other rights, including those under Clause 7);
- 4.4.5** To comply with the schedule of dilapidations which the Landlord may serve on the Tenant towards the end of the Term, and any other dilapidations that occur after the schedule of dilapidations has been served which the Landlord shall notify the Tenant of in writing;

### **4.5 Decoration and Cleaning**

- 4.5.1** To keep the Premises clean, tidy and free from rubbish and not to accumulate any refuse or allow any dump or rubbish or scrap heap to be kept on the Premises and to keep the Premises in good order for the purpose of the Permitted Use and in accordance with Best Industry Practice;
- 4.5.2** To clean the washable surfaces at the Premises as often as reasonably necessary and in accordance with Best Industry Practice;
- 4.5.3** To clean, prepare and paint or treat and generally redecorate all internal and external parts of the Premises in every fifth year and in the twelve (12) months immediately prior to the expiration or earlier termination of the Term;

**4.5.4** The work described in Clause 4.5.3 is to be carried out:

- (i) in a good and workmanlike manner to the Landlord's reasonable satisfaction and;
- (ii) in colours which (if different from the existing colours) are first approved in writing by the Landlord (which approval shall not be unreasonably withheld);

## **4.6 Conduits**

To keep the Conduits in or serving the Premises, clear and free from any noxious, harmful or deleterious substance, and to remove any obstruction and repair any damage to the Conduits as soon as reasonably practicable to the Landlord's reasonable satisfaction and to keep and maintain properly earth bonded metal water supply pipes (if any) in the Premises and not to disconnect the earth connection to the substation and transformer on the Premises and to ensure sufficient facility for testing by the Ministry of Defence;

## **4.7 User**

**4.7.1** Not to use the Premises or any part of it otherwise than for the Permitted Use or for such other use as the Landlord may consent to in writing and the Landlord shall be entitled to charge a premium for such consent in each and every case;

**4.7.2** To use its reasonable endeavours to refocus the existing ship repair, refit and conversion business carried out at the Premises to long term service contracts with Her Majesty's Naval Service and/or Superyachts.

**4.7.3** Not to use the Premises or any part of it other than to carry on its business for the Permitted Use in accordance, and in keeping, with the Environmental KPIs and in accordance, and in keeping, with the outcomes of any environmental impact assessment carried out by the Landlord (acting by its Surveyor) as notified to the Tenant in writing;

**4.7.4** Not to use the Premises for any purpose which is offensive, dangerous, illegal, immoral or which involves substances which are not used in the ordinary course of the Permitted Use and are toxic, harmful, polluting or contaminating substances or odours.

**4.7.5** Not to use the Premises for any purpose which, in the Landlord's sole opinion, may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;

**4.7.6** Not to use the Premises for any purpose which is noisy or noxious or a nuisance or excessively bright or results in injurious vibrations or excessive fumes and/or emissions or causes damage or annoyance or inconvenience or disturbance to the Landlord or to owners, tenants and/or occupiers of any adjoining or neighbouring property outside the Daylight Hours without the Landlord's prior written consent in accordance with Clause 4.7.8 (such consent not to be unreasonably withheld and the Landlord agrees to use reasonable endeavours to revert to the Tenant within two (2) Working Days or otherwise as soon as reasonably practicable) and to the extent that the Premises are required to be used for any such purpose during the Daylight Hours to carry out such activities in accordance with Best Industry Practice and to use its best endeavours to carry out such activities within the ship hull or in

such other part of the Premises so as not to cause any damage or annoyance or inconvenience or disturbance to the Landlord or to owners, tenants and/or occupiers of any adjoining or neighbouring property;

**4.7.7** Not to use the Premises for blasting, painting or spraying outside the Daylight Hours nor to use the Premises for emergency ship repair works and/or ship repair works for Her Majesty's Naval Service outside the Daylight Hours without the Landlord's prior written consent in accordance with Clause 4.7.8 (such consent not to be unreasonably withheld and the Landlord agrees to use reasonable endeavours to revert to the Tenant within two (2) Working Days or otherwise as soon as reasonably practicable);

**4.7.8** The Landlord may withhold its consent under this Clause 4.7 in circumstances where

- (i) the Tenant does not provide particulars of the extenuating circumstances being relied on for seeking the Landlord's consent and the anticipated duration of the proposed works; and
- (ii) the Tenant does not enter into and deliver an Extenuating Works Licence substantially in the form set out in the Fourth Schedule, prior to commencement of any extenuating works;

**4.7.9** The conditions in Clause 4.7.8 shall not prejudice the Landlord's right to withhold consent or to impose other conditions where, in the opinion of the Landlord, it would be reasonable to do so;

## **4.8 Alterations**

**4.8.1** Not to make any alterations or additions which affect the structure of the dry docks or which may prevent the dry docks from operating as such nor to reclaim any land nor to make any alterations or additions which, in the Landlord's sole opinion, may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;

**4.8.2** Not to make any other alterations or additions to the Premises including the Workshop Building and the Pump House or any Conduits, plant or equipment serving the Premises without the Landlord's written consent;

**4.8.3** The Landlord may withhold its consent under this Clause 4.8 in circumstances where:

- (i) the proposed alteration or addition to the Premises is inconsistent with the Permitted Use; or
- (ii) the proposed alteration or addition is not an improvement of the Premises in accordance with Best Industry Practice; or
- (iii) the Tenant does not enter into and deliver a tenant's works deed in a form to be agreed between the Landlord and the Tenant, together with plans, drawings and specifications prepared by an architect or member of some other appropriate profession prior to commencement of any alterations; or

- (iv) the Landlord has not received an unconditional undertaking from the Tenant's solicitors to pay all the Landlord's proper costs arising in connection with the application for consent to alter (including without limitation legal fees and surveyors' fees and disbursements) whether or not consent is granted;
- 4.8.4 The conditions in Clause 4.8.3 shall not prejudice the Landlord's right to withhold consent or to impose other conditions where, in the opinion of the Landlord, it would be reasonable to do so;
- 4.8.5 To carry out all works at the Tenant's expense which may be directed by statute or required to be executed upon the Premises during the Term;
- 4.8.6 To deliver a written report to the Landlord on the Landlord's request (in a form satisfactory to the Landlord) in respect of any capital investment by the Tenant in the Premises subject to a maximum of 1 written report per annum;
- 4.9 **Easements**
  - 4.9.1 To preserve all rights of light and other easements enjoyed by the Premises, and not to permit or suffer anyone to acquire any right of light or other easement or right over the Premises;
  - 4.9.2 To give the Landlord notice if any easement enjoyed by the Premises is obstructed, or any new easement affecting the Premises is made or attempted;
  - 4.9.3 Nothing in this Lease shall entitle the Tenant to any easement from or over or affecting any other neighbouring or adjoining property;
- 4.10 **Alienation**
  - 4.10.1 Not to nor agree to:
    - (i) assign the whole of the Premises or underlet or otherwise part with possession of the whole or any part of the Premises except by an assignment of the whole of the Premises permitted by this Clause 4.10;
    - (ii) underlet the whole or any part of the Premises except as permitted by this Clause 4.10;
    - (iii) charge the whole of the Premises except as permitted by this Clause 4.10;
    - (iv) assign charge or hold as agent or in trust of part only of the Premises; or
    - (v) share possession and/or occupation of the whole or any part of the Premises except as permitted by this Clause 4.10;
  - 4.10.2 Not to assign or agree to assign the whole of the Premises without the Landlord's written consent (which consent shall not be unreasonably withheld), provided that:
    - (i) the Landlord may withhold consent in circumstances (and it is hereby agreed by the Tenant that it will be reasonable for the Landlord to do so) where:
      - (a) the intended assignee intends to apply for a change to the Permitted Use;

- (b) in the reasonable opinion of the Landlord, the proposed assignee is not of sufficient financial standing to enable it to comply with any one or more of the Environmental KPIs, any one or more of the Operational KPIs, the Financial KPI or any one or more of the Tenant's covenants in this Lease (save that it is agreed that this provision shall not apply to an assignment to or by a Mortgagee (or any receiver appointed by a Mortgagee));
  - (c) there exists any breach of the Tenant's covenants in this Lease which the Tenant has failed to remedy (save that it is agreed that this provision shall not apply to an assignment to or by a Mortgagee (or any receiver appointed by a Mortgagee));
  - (d) the intended assignee is not incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction;
  - (e) in the Landlord's sole opinion, the proposed assignment may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;
  - (f) the intended assignee enjoys diplomatic or state immunity or is not resident in a jurisdiction where reciprocal enforcement of judgments exists; or
  - (g) the Landlord has not received an unconditional undertaking from the Tenant's solicitors to pay all the Landlord's proper costs arising in connection with the application for the consent to assign (including without limitation legal fees and surveyors' fees and disbursements) whether or not the assignment proceeds to completion;
- (ii) the Landlord's consent shall in every case be subject to conditions (unless expressly amended or excluded in writing) requiring that:
- (a) the Landlord receives a premium pursuant to the provisions of the Landlord and Tenant Act not exceeding the equivalent of two years' Principal Rent at the amount payable immediately before completion of the assignment (unless the application for consent relates to a change of Shareholding which would not result in a change of Control of Balaena PropCo Limited as original tenant or unless the application for consent (i) is made by a Mortgagee (or any receiver appointed by a Mortgagee) or its first assignee or (ii) relates to a change of Shareholding (A) to a Mortgagee pursuant to clause 4.10.5 or (B) by a Mortgagee (or any receiver appointed by a Mortgagee) to its first transferee pursuant to clause 4.10.5);
  - (b) the intended assignee enters into direct covenants with the Landlord that as from the date of the assignment and during the remainder of the Term the assignee will pay the Reduced Rent (and thereby varying the terms of this Lease such that the provisions relating to Stepped Rent shall not apply to the assignee) and will fully and effectually observe and perform the Tenant's covenants in this Lease in a form acceptable to the Landlord;
  - (c) such other persons as the Landlord reasonably require act as guarantors for the assignee where in the reasonable opinion of the Landlord, the proposed assignee is not of sufficient financial standing to enable it to comply with any one or more of the Environmental KPIs, any one or more of the Operational KPIs, the Financial KPI or any one or more of the Tenant's covenants in this Lease and enter into direct covenants with the Landlord including the provisions set out in the Third

- Schedule (with such amendments and additions as the Landlord may reasonably require) to be prepared at the cost of the Tenant;
- (d) the intended assignee confirms that it acknowledges that it will be required to pay the Reduced Rent as principal rent and that it shall not have the benefit of the Stepped Rent which is personal to Balaena PropCo Limited as original tenant; and
  - (e) all Principal Rent and all other payments due under this Lease are paid before completion of the assignment;

**4.10.3** If there is an assignment of the whole of the Premises:

by virtue of either a direct transfer of shares in the Tenant that would result in a change of Control of the Tenant or by a deed of assignment of the whole of the Premises (either situation constituting an "Assignment"),

- a. the Tenant or a Mortgagee (as the case may be) shall / shall procure that the Landlord is first given written notice of its intention and shall meet with and consult with the Landlord and/or the Landlord's Representative in good faith to discuss its intention to pursue an Assignment which meeting the parties hereby agree shall take place within twenty (20) Working Days of the notice or such later date as may be agreed between the Tenant or a Mortgagee (as the case may be) and the Landlord;
- b. the Landlord or the Landlord's Representative shall give a written expression of interest to the Tenant or a Mortgagee (as the case may be) exercising its right under this Clause 4.10.3 within ten (10) Working Days of such meeting which expression of interest shall be, for the avoidance of doubt, on a non-binding basis, subject to contract and to valuation and to financing and where the meeting has not taken place and/or the expression of interest has not been provided within the time periods set out herein the Landlord shall be deemed to have expressed an interest in exercising its right under this Clause 4.10.3;
- c. the Tenant or a Mortgagee shall thereafter in consultation with the Landlord instruct (or shall procure to instruct) one or more independent, impartial Experts at the Tenant's and / or a Mortgagee's (as the case may be) sole cost to determine within three (3) months the value of this Lease that it believes could be obtained in the open market in a competitive auction process between a willing buyer and a willing seller in an arm's length transaction, for the Permitted Use on the terms of this Lease (including this Clause) and subject to any occupational interests on the Property which the parties agree should continue after completion but otherwise on the basis of full vacant possession, excluding goodwill attached to the Premises by reason of any business carried on there within the Permitted Use but including the Tenant's Fixtures and Fittings and, if the Premises has been destroyed or damaged, assuming it has been fully restored and the Tenant or a Mortgagee shall set out such value in writing to the Landlord and shall provide a copy of such valuation to the Landlord;
- d. if the Landlord and the Tenant or a Mortgagee (as the case may be) agree terms in principle within twenty (20) Working Days following the date the copy of such valuation was provided or such later date as may be agreed between the Tenant or a Mortgagee (as the case may be) and the Landlord, completion of the Assignment shall take place within two (2) months following the date of the agreement in principle or such

later date as may be agreed between the Tenant or a Mortgagee (as the case may be) and the Landlord when the Tenant or a Mortgagee (as the case may be) shall deliver the Premises to the Landlord subject to any occupational interests which the parties agree should continue after completion but otherwise with full vacant possession together with the Tenant's Fixtures and Fittings and surrender all its estate, interest and rights in the Premises and in the Tenant's Fixtures and Fittings free from all mortgages, charges and encumbrances by a deed of surrender in a form to be agreed between the parties subject to payment of consideration by the Landlord which shall be equivalent to the agreed terms in principle;

- e. if the Landlord and the Tenant or a Mortgagee (as the case may be) do not agree terms in principle within this period (or such later period as agreed), or if, once terms have been agreed in principle, completion of the Assignment has not taken place on the completion date (other than as a result of any default of the Tenant or a Mortgagee), the Tenant or a Mortgagee (as the case may be) shall be entitled to proceed with a competitive auction process for an Assignment in which the Landlord shall be invited to bid and if the Landlord does not make the winning bid the Tenant or a Mortgagee (as the case may be) may (subject to compliance with Clause 4.10.5) proceed with the Assignment.

**4.10.4** The Tenant shall not enter into and the Tenant shall procure that the Owner or the Tenant Group shall not enter into any transaction involving any change of Shareholding of the Tenant Group which would not result in a change of Control of the Tenant Group without the Landlord's prior consent provided that the Landlord hereby agrees that if it does not respond to an application for consent within twenty (20) Working Days it shall be deemed to have consented provided that the Landlord's consent shall only be withheld (and the Tenant agrees it shall be reasonable to do so) where:

- (i) the intended assignee intends to apply for a change to the Permitted Use;
- (ii) the intended assignee enjoys diplomatic or state immunity or is not resident in a jurisdiction where reciprocal enforcement of judgments exists;
- (iii) the intended assignee is not incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction; and/or
- (iv) in the Landlord's sole opinion, the proposed change of Shareholding may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;

and the Tenant hereby covenants to notify the Landlord within twenty (20) Working Days of any change of Shareholding of the Tenant Group save that no such consent or notification shall be required where (a) there is a change of Shareholding of the Tenant Group of any of the shares in the Mortgagee provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (b) there is a change of Shareholding in a regulated investment fund forming part of the Tenant Group which results in the proposed transferee holding an interest of less than 10% in the Tenant Group (directly or indirectly) provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (c) there is change

of Shareholding of the Tenant Group of any shares which are publicly listed on recognised stock exchanges by Her Majesty's Revenue and Customs under section 1005 of the UK Income Tax Act 2007 (in each case an "Exchange");

**4.10.5** The Tenant shall not enter into and the Tenant shall procure that the Owner or the Tenant Group shall not enter into any transaction involving any change of Shareholding of the Tenant Group that would result in a change of Control of the Tenant Group without the Landlord's prior consent which, for the avoidance of doubt, shall be deemed to be an assignment of the Lease and shall therefore be subject to compliance with the provisions of Clause 4.10.2(ii), provided that the Landlord hereby agrees that where there is a change of Shareholding of the Tenant Group that would result in a change of Control of the Tenant Group either (a) to a Mortgagee or (b) where the Owner as at the date of this Lease is a natural person, following the death of the Owner to its estate or (c) by a Mortgagee (or any receiver appointed by a Mortgagee) to its first transferee (for the purposes of this clause, an "assignee") in the enforcement of any security held by it including upon the exercise of any power of sale or other power enjoyed by it under any such security or (d) where the Owner as at the date of this Lease is a natural person, following the death of the Owner by its estate to the first transferee of the estate, notwithstanding the provisions of Clause 4.10.2, if the Landlord does not respond to an application for consent within twenty (20) Working Days it shall be deemed to have consented provided further that notwithstanding the provisions of Clause 4.10.2, the Landlord's consent shall only be withheld (and the Tenant agrees it shall be reasonable to do so) where:

- (i) the intended assignee intends to apply for a change to the Permitted Use;
- (ii) the intended assignee enjoys diplomatic or state immunity or is not resident in a jurisdiction where reciprocal enforcement of judgments exists
- (iii) the intended assignee is not incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction; and/or
- (iv) in the Landlord's sole opinion, the proposed change of Control may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;
- (v) in the case of (c) and (d) only, such other persons as the Landlord reasonably requires do not agree to act as guarantors for the assignee where in the reasonable opinion of the Landlord, the assignee is not of sufficient financial standing to enable it to comply with any one or more of the Tenant's covenants in this Lease;

and the Tenant covenants to notify the Landlord within twenty (20) Working Days of any change of Shareholding that would result in a change of Control of the Tenant Group under this Clause save that no such consent or notification shall be required where there is a change of Shareholding of the Tenant Group that would result in a change of Control of the Tenant Group (a) in respect of any of the shares in the Mortgagee provided that the transferee is incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (b) in respect of any shares which are publicly listed on an Exchange;

**4.10.6** The Tenant shall not underlet or agree to underlet the whole or any part of the Premises other than to a Group Company operating the Permitted Use at the Premises in a manner that is consistent with the provisions of this Lease for as



long as it remains a Group Company nor to vary the terms of any such underlease nor accept a surrender of any such underlease without the Landlord's prior written consent (which consent shall not to be unreasonably withheld) and the Tenant shall procure that any undertenant does not enter into any transaction involving any change of Shareholding of the undertenant without the Landlord's prior consent provided that the Landlord hereby agrees if it does not respond to an application for consent within twenty (20) Working Days it shall be deemed to have consented provided that the Landlord's consent shall only be withheld (and the Tenant agrees it shall be reasonable to do so) where:

- (i) the intended assignee enjoys diplomatic or state immunity or is not resident in a jurisdiction where reciprocal enforcement of judgments exists;
- (ii) the intended assignee is not incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction; and/or
- (iii) in the Landlord's sole opinion, the proposed change of Shareholding may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;

and the Tenant covenants to notify the Landlord within twenty (20) Working Days of any change of Shareholding of any undertenant save that no such consent or notification shall be required where (a) there is a change of Shareholding of the Tenant Group of any of the shares in the Mortgagee provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (b) there is a change of Shareholding in a regulated investment fund forming part of the Tenant Group which results in the proposed transferee holding an interest of less than 10% in the Tenant Group (directly or indirectly) provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (c) there is change of Shareholding of the Tenant Group of any shares which are publicly listed on an Exchange;

**4.10.7** Notwithstanding the provisions of Clause 4.10.6, the Tenant may charge or mortgage by way of sub-demise the whole of the Premises with a bank or lending institution or regulated debt fund / a wholly owned subsidiary thereof (or its security agent or trustee) of good repute with the Landlord's prior written consent (which consent shall not be unreasonably withheld provided that the bank or lending institution or regulated debt fund / a wholly owned subsidiary thereof is incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction);

**4.10.8** Notwithstanding Clause 4.10.1, the Tenant may share occupation of the whole or any part of the Premises with a Group Company operating the Permitted Use at the Premises directly or involved in its operation for as long as it remains a Group Company PROVIDED THAT no relationship of landlord and tenant is established and the overall impression of the Premises is that of a single shipyard facility and floating offshore utility platform production facility (as applicable) in one occupation and the Tenant shall procure that any licensee does not enter into any transaction involving any change of Shareholding of the licensee without the Landlord's prior consent provided that the Landlord hereby agrees if it does not respond to an application for consent within twenty (20) Working Days it shall be deemed to have consented provided that the Landlord's consent shall only be withheld (and the Tenant agrees it shall be reasonable to do so) where:

- (i) the intended licensee enjoys diplomatic or state immunity or is not resident in a jurisdiction where reciprocal enforcement of judgments exists
- (ii) the intended licensee is not incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction; and/or
- (iii) in the Landlord's sole opinion, the proposed change of Shareholding may be contrary to Gibraltar's strategic value to the United Kingdom as a forward mounting base;

and the Tenant covenants to notify the Landlord within twenty (20) Working Days of any change of Shareholding of any licensee; save that no such consent or notification shall be required where (a) there is a change of Shareholding of the Tenant Group of any of the shares in the Mortgagee provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (b) there is a change of Shareholding in a regulated investment fund forming part of the Tenant Group which results in the proposed transferee holding an interest of less than 10% in the Tenant Group (directly or indirectly) provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (c) there is change of Shareholding of the Tenant Group of any shares which are publicly listed on an Exchange.

**4.10.9** The Tenant and/or a Group Company shall be responsible for payment of all stamp duties and registration fees payable on any assignment underletting mortgage or charge in respect of the Premises;

#### **4.11 Change of Shareholding in any Operating Company**

**4.11.1** The Tenant shall procure that any Operating Company does not enter into any transaction involving any change of Shareholding of the Operating Company without first obtaining the Landlord's written consent which consent shall be deemed to have been given if the Landlord fails to respond within twenty (20) Working Days to an application for consent;

**4.11.2** The Landlord's consent shall only be withheld (and the Tenant agrees that it shall be reasonable to do so) where:

- (i) the proposed transferee intends to apply for a change to the Permitted Use;
- (ii) the proposed transferee enjoys diplomatic or state immunity or is not resident in a jurisdiction where reciprocal enforcement of judgments exists;
- (iii) the intended transferee is not incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction; or
- (iv) in the Landlord's sole opinion, the proposed change of Shareholding may be contrary to the strategic interests of Gibraltar and/or Gibraltar's strategic value to the United Kingdom as a forward mounting base;

and the Tenant covenants to notify the Landlord within twenty (20) Working Days of any change of Shareholding of any Operating Company save that no such consent or notification shall be required where there is a change of Shareholding of the Operating Company that would result in a change of Control of the Operating Company (a) in respect of any of the shares in the Mortgagee provided that the transferee is incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (b) there is a change of Shareholding in a regulated investment fund which results in the proposed transferee holding an interest of less than 10% in the Operating Company (directly or indirectly) provided always that the transferee shall be incorporated and resident in and controlled (directly or indirectly) by a person incorporated and resident in a Permitted Jurisdiction and/or (c) in respect of any shares which are publicly listed on an Exchange.

#### **4.12 Registration**

- 4.12.1** To pay all stamp duties and registration fees payable on this Lease and to procure that this Lease is duly stamped, registered and recorded in the Land Titles Register in accordance with the provisions of the Land Titles Act and to provide evidence of the same to the Landlord within one (1) month of such registration;
- 4.12.2** At the Tenant's cost, to deliver to the Landlord's solicitors (or as the Landlord may direct) a true and accurate copy of any assignment, mortgage, charge, underlease, transfer, assent, administration, grant of probate, discharge of court order or other evidence of devolution of the Premises, together with written notice and a reasonable registration fee of not less than £150 within one (1) month of the date of the relevant document and to deliver evidence that the relevant document has been duly stamped, registered and recorded in the Land Titles Register in accordance with the provisions of the Gibraltar Land Titles Act within one (1) month of such registration;

#### **4.13 Statutory Requirements and Notices**

- 4.13.1** To comply with all laws relating to the Premises and the occupation and use of the Premises by the Tenant and all materials kept at or disposed of from the Premises;
- 4.13.2** To comply promptly with all notices served by any public, local or statutory authority, and with the requirements of any present or future statute (whether imposed on the owner or occupier) and all recommendations of police and fire officers and Ministry of Defence as to fire precautions to be taken in respect of the Premises, which affects the Premises or its use;
- 4.13.3** To maintain and provide any information reasonably requested by the Landlord to enable the Landlord to comply with the requirements of any statute;
- 4.13.4** To comply with all applicable maritime legislation and to comply with the lawful directions of the Captain of the Port or the Queen's Harbour Master;

- 4.13.5** To comply and to procure that all of the Tenant's customer vessels comply with all the instructions, directions, protocols and procedures issued and/or mandated by the Queens Harbour Master in Gibraltar, including without limitation the provision of any advance notification whenever it is intended to undertake work within the Premises on a vessel registered in any nation that may be designated and notified in writing by the Lessor and or the Queens Harbour Master to the Lessee from time to time;
- 4.13.6** To notify the Landlord of any claim under this clause and/or relating to the Premises and/or to any of the Tenant's obligations to the Landlord started against the Tenant or the Tenant Group and/or an Operating Company or to its knowledge, threatened against the Tenant or the Tenant Group and/or an Operating Company and to notify the Landlord of any circumstances reasonably likely to result in such a claim against the Tenant or the Tenant Group and/or an Operating Company;
- 4.13.7** To supply the Landlord with a copy of any notice, order or certificate or proposal for any notice, order or certificate affecting or capable of affecting the Premises as soon as it is received by or comes to the notice of the Tenant;
- 4.13.8** At the request of the Landlord, but at the joint cost of the Landlord and the Tenant, to make or join the Landlord in making such objections or representations against or in respect of any such notice, order or certificate as the Landlord may reasonably require;

#### **4.14 Planning**

- 4.14.1** To comply with the Planning Acts and not to do any act matter or thing in respect of the Premises which contravenes the Planning Acts and the Tenant shall keep the Landlord indemnified against all claims demands and liabilities in respect of the same;
- 4.14.2** Not to apply for or implement any planning permission affecting the Premises without first obtaining the Landlord's written consent (which consent shall not be unreasonably withheld);
- 4.14.3** If a planning permission is implemented the Tenant shall complete all the works permitted and comply with all the regulations and the conditions imposed by the authorities responsible for town planning and building control before the determination of the Term (including any works stipulated to be carried out by a date after the determination of the Term unless the Landlord requires otherwise);
- 4.14.4** If the Landlord reasonably so requires, to produce evidence to the Landlord that the provisions of this Clause 4.14 have been complied with;

#### **4.15 Contaminants and Defects**

- 4.15.1** To give the Landlord immediate written notice of the existence of any contaminant, pollutant or harmful substance on, or any defect in, the Premises which are not used in the ordinary course of the Permitted Use ;
- 4.15.2** If so requested by the Landlord, to remove from the Premises or remedy to the Landlord's reasonable satisfaction any such contaminant, pollutant or harmful substance;

#### **4.16 Entry upon Premises**

**4.16.1** To permit the Landlord at all reasonable times and on reasonable notice (except in an emergency) to enter the Premises in order to:

- (i) inspect and record the condition of the Premises;
- (ii) remedy any breach of the Tenant's obligations under this Lease;
- (iii) inspect, repair, maintain, clean, alter, replace, install, add to or connect up to any Conduits which serve the Premises;
- (iv) repair, maintain, alter or rebuild any part of the Premises or adjacent or neighbouring property;
- (v) repair, maintain, alter or rebuild the road providing access to Queensway Road;
- (vi) take any samples or make any assessments relating to the Environment and to implement any safety measures relating to the Environment;
- (vii) to serve any statutory fines on captains of vessels calling at the Premises and to receive notice for and on behalf of the captain of any vessel calling at the Premises; and
- (viii) comply with any of its obligations under this Lease;

Provided that the Landlord and those authorised by it shall cause as little inconvenience as reasonably practicable in the exercise of such rights, and shall make good any damage to the Premises caused by such entry;

**4.16.2** To permit the officers servants and employees of the Ministry of Defence with or without workmen and vehicles at all reasonable times and after reasonable notice in writing (except in an emergency) to enter upon the Premises and any part thereof to view and inspect repair renew or remove all or any of the Reserved Services situate in the Premises;

**4.16.3** To permit the uniformed members of the Ministry of Defence Gibraltar Fire & Rescue Service or Service Personnel of the Gibraltar Defence Police in the exercise of their official duties at all reasonable times and after reasonable notice in writing (except in an emergency) to enter the Premises and any part thereof including buildings and enclosures (if any);

#### **4.17 Landlord's Costs**

To pay the Landlord on demand amounts equal to such reasonable Costs as it may incur in connection with or in contemplation of any of the following:

- 4.17.1** any application for consent made necessary by this Lease (including where consent is refused or the application is withdrawn);
- 4.17.2** incidental to or the preparation and service of a schedule of dilapidations (whether before or after expiry of the Term);
- 4.17.3** incidental to or the preparation and service of a notice or proceedings under Section 14 of the Law of Property Act (even if forfeiture is avoided other than by relief granted by the courts of Gibraltar);
- 4.17.4** the enforcement or remedying of any breach of the covenants in this Lease on the part of the Tenant;
- 4.17.5** compliance with or making representations against or contesting the effects of any statute in relation to the Premises or its use and occupation whether incurred directly or indirectly;

**4.17.6** abating any nuisance at the Premises in obedience to a notice served under the relevant legislation;

#### **4.18 Indemnity**

**4.18.1** To indemnify and keep indemnified the Landlord at all times (both during and after the Term) against all Costs arising directly or indirectly from the state of repair and condition of the Premises, the use or occupation of the Premises, or any breach of the Tenant's obligations under this Lease, or any damage caused by the Tenant to any of the Reserved Services or any works carried out at the Premises by the Tenant or occupier or person under their control, or any act, default, omission or negligence of the Tenant in relation to the Premises, or the exercise of the rights set out in Part I of the First Schedule and to make good any damage caused to the Landlord's satisfaction;

**4.18.2** The Tenant acknowledges and agrees that any liability under Environmental Law arising in respect of any material, substance or organism which, alone or in combination with others, is capable of causing harm to the Environment or which is likely to cause an actionable nuisance in, on, under or emanating from the Property, on or before the date of this Lease but not before 17<sup>th</sup> February 1998, shall be the sole responsibility of the Tenant and the Tenant further acknowledges and agrees that it is solely responsible for the cost of any remediation works in respect of the same and it will not seek any further contribution from the Landlord.

#### **4.19 Reletting Notices**

To allow a letting or sale board to be displayed on the Premises (but not so that it restricts or interferes unreasonably with the light enjoyed by the Premises), and to allow prospective tenants or occupiers to view the Premises at reasonable times on reasonable notice;

#### **4.20 Yielding up**

**4.20.1** Immediately before the end of the Term (howsoever determined):

- (i) to give up the Premises with full vacant possession and to deliver the Premises in a good and substantial tenantable and marketable state of condition and repair and decoration and otherwise in accordance with the Tenant's covenants in this Lease and with any schedule of dilapidations, and with the Landlord's Fixtures and Fittings in proper working order and condition;
- (ii) if the Landlord so requires, to remove all the Tenant's alterations made during the Term or any preceding period of occupation by the Tenant and to reinstate and deliver the Premises in a good and substantial tenantable and marketable state of condition and repair and decoration and otherwise in accordance with the Tenant's covenants in this Lease and with any schedule of dilapidations or as the Landlord shall otherwise direct and to its satisfaction;
- (iii) to remove all signs, Tenant's Fixtures and Fittings and other goods from the Premises, and make good any damage caused thereby to the Landlord's satisfaction;
- (iv) to replace any damaged or missing Landlord's Fixtures and Fittings (if any) with ones of no less quality and value.

**4.20.2** If the Tenant fails to comply with Clause 4.20.1 to pay to the Landlord on demand:

- (i) any Costs incurred by the Landlord in remedying the breach; and
- (ii) a sum equivalent to the Principal Rent payable immediately before the end of the Term pro rated for the period reasonably required to remedy the breach;

#### **4.21 KPIs**

**4.21.1** To meet each and every one of the Environmental KPIs and each and every one of the Operational KPIs and the Financial KPI to the satisfaction of the Landlord and to provide evidence of the same to the Landlord at the Tenant's cost;

**4.21.2** To deliver a written report on each Quarter Day to the Landlord (in a form satisfactory to the Landlord) in respect of each of the Environmental KPIs and to provide a summary of all complaints received by the Tenant (or a Group Company) since the date of the previous quarter's report, indicating the nature and date of receipt of the complaint and date of the activity to which the complaint referred;

**4.21.3** To deliver a written report on each Quarter Day to the Landlord (in a form satisfactory to the Landlord) in respect of each of the Operational KPIs;

**4.21.4** To deliver a written report on each Quarter Day to the Landlord (in a form satisfactory to the Landlord) in respect of the Financial KPI;

**4.21.5** If the Tenant is not able to meet the Financial KPI, any one or more of the Environmental KPIs or any one or more of the Operational KPIs as a direct result of the occurrence of a Force Majeure Event, the Tenant shall be entitled to serve notice to the Landlord providing full particulars of the Force Majeure Event and proposing an additional period of time within which to comply with Financial KPI, Environmental KPIs and/or the Operational KPIs as shall be commensurate with the period of disruption caused by the Force Majeure Event for agreement by the Landlord. The Landlord and Tenant shall agree the said period of time within ten (10) Working days failing which the provisions of Clause 7.4 of this Lease will apply.

**4.21.6** If there is a Force Majeure Event, the Tenant shall use its best endeavours to mitigate the effects of any disruption to the business carried out at the Premises and shall take all steps to resume its performance and observance of the covenants in this Lease in a prompt and efficient manner.

**4.21.7** If the Tenant is in breach of the Financial KPI, and the Landlord has not received notice of a Force Majeure Event the Landlord may serve notice on the Tenant stating the breach and the Tenant and/or Tenant Group shall pay the Landlord the sum equivalent to the difference between the Tax Target and the actual tax paid by the Tenant for the relevant period within 20 Working Days of the notice and any failure to pay such amount within this period shall be a debt payable on demand due forthwith from the Tenant. The Tenant hereby acknowledges and agrees that, having regard to the provisions relating to the rent payable in this Lease, any amounts payable following a breach of the Financial KPI shall not be construed to be a penalty and the Tenant hereby waives all and any rights it may have in this regard.

**4.21.8** After the Mortgagee has enforced its security the Landlord agrees to make itself and/or the Landlord's Representative available on one occasion during the period of one (1) month from the date of the said enforcement to meet with and consult with the Mortgagee in good faith and discuss the level of the Financial KPI in comparison to the operational activity and cash flow generation ability of the business carried out at the Premises for the Permitted Use at the relevant time.

#### **4.22 Trading**

To maintain, extend and/or renew any relevant trade business or operating licence and to provide evidence of such licence to the Landlord;

#### **4.23 Engagement**

To arrange for the Landlord's Representative and the Tenant's Representative to meet at such intervals as may be agreed by the Landlord and the Tenant in writing in order to discuss any matters arising from the reports delivered to the Landlord under this Lease (and explore the inclusion of a resident representative from a neighbouring premises for such part of the meeting as may be deemed relevant) and promptly to supply any information requested by the Landlord from time to time in connection with the reports.

#### **4.24 Guarantor**

For so long as the Guarantor or any guarantors (if any) remain liable to the Landlord, to procure that such guarantor joins in any consent or approval required under this Lease and any variation of this Lease provided that the Landlord hereby agrees that this covenant shall not apply to a Mortgagee;

#### **4.25 No Compensation**

Not to claim compensation against the Crown, whether in its right of the Government of Gibraltar or in its right of the Government of the United Kingdom and Northern Ireland or any officer or person in the service or employment of either of the said Governments in respect of any damage to the Premises or to any new structure or alteration within the Premises or any part thereof or in respect of any loss of life or injury or damage to persons or chattels therein direct or indirect arising from or in any way attributable to any of the following acts or occurrences that is to say:-



- (i) blasting excavating tunnelling boring or mining by or on the orders or instructions of either of the said Governments
- (ii) flood landslide or fall of water or stones howsoever caused
- (iii) firing of any gun or flying of any aircraft owned by either of the said Governments
- (iv) fire smoke or fumes or explosion in or originating or arising in any property pipe or vessel occupied or owned by either of the said Governments
- (v) the operation by either Governments' department of any wireless telegraphy station installation or apparatus whether as a result of any accident or by reason of any negligence or other acts of either of the said Governments or any officer or person in their service or employment.

## **5 Landlord's covenants**

The Landlord covenants with the Tenant while the reversion immediately expectant on the Term is vested in it as follows:

### **5.1 Quiet enjoyment**

That, subject to the Tenant paying the rents reserved by and complying with the terms of this Lease, the Tenant may peaceably enjoy the Premises during the Term without any interruption by the Landlord or any person lawfully claiming under or in trust for it;

### **5.2 Utilities**

**5.2.1** To procure secure access is provided for the Tenant at all times during the first ninety (90) Working Days of the Term to continuous and uninterrupted supply of electricity of 60Hz power in addition to the standard supply of electricity in Gibraltar and to continue to procure the standard supply of electricity throughout the Term as a backup supply for generator or IUP outage or maintenance;

**5.2.2** To procure secure access is provided for the Tenant at all times during the Term to fresh water and brackish water and telecommunications lines as may be reasonably required for the Permitted Use;

### **5.3 No obstruction**

**5.3.1** Save in the exercise of its statutory obligations or other directives, regulations, rules or applicable law, not to obstruct or interfere with the free passage of vessels of any flag or registry sailing to or from the Premises for the purpose of docking repairs or otherwise in the course of business of the Tenant.

### **5.4 Indemnity**

To indemnify and keep the Tenant indemnified against all damages and losses suffered or incurred by the Tenant by reason of the existence prior to the 17<sup>th</sup> February 1998 of any fuel and lubricating oils in the ground within the whole or part of the Premises excluding the escape of leakage or discharge of such fuels or oils from Ministry of Defence ships pipes tankers containers and to make good any damage to the Premises or any part thereof and any loss or damage to the Tenant arising as a

consequence of breach of non-observance of the Landlord's covenants contained in this Lease;

## **5.5 Maintenance**

To keep and maintain in good and substantial repair and maintenance the sea walls and the boundary walls outside the Premises which for the avoidance of doubt includes the boundary wall marked A and the sea wall marked B on the plan annexed to this Lease;

## **6 Insurance**

**6.1** The Tenant covenants with the Landlord throughout the Term or until released by law as follows:

- 6.1.1** To effect and maintain building insurance against loss or damage by the Insured Risks with an insurance office of repute in the joint names of the Landlord and the Tenant for an amount not less than the full cost of reinstatement of the Premises including shoring up, demolition and site clearance, professional fees and allowance for building costs increases and any other work to the Premises that may be required by law and for an amount to cover the Principal Rent during the Term and to provide evidence of such insurance to the Landlord and of payment of the current premium;
- 6.1.2** To effect loss of rent insurance to cover the Principal Rent during the Term in the joint names of the Landlord and the Tenant and to provide evidence of such insurance to the Landlord and of payment of the current premium;
- 6.1.3** To effect contents insurance and third party liability insurance in respect of the Premises with an insurance office of repute in Gibraltar or in the United Kingdom to include the Landlord's fixtures and fittings and the Tenant's fixtures and fittings and to provide evidence of such insurance to the Landlord and of payment of the current premium;
- 6.1.4** To give the Landlord immediate written notice on becoming aware of any event or circumstance which might affect or lead to an insurance claim relating to the Premises and/or to any of the Tenant's obligations to the Landlord;
- 6.1.5** Not to do anything at the Premises which would or might prejudice void vitiate or invalidate the insurance of the Premises;
- 6.1.6** To comply with the requirements and recommendations of the insurers and fire authorities including Gibraltar Fire and Rescue Service and Ministry of Defence as to fire precautions to be taken in respect of the Premises;
- 6.1.7** To pay any uninsured excess and to use the insurance proceeds recovered after an insured event to reinstate the Premises as quickly and reasonably practicable;
- 6.1.8** To pay the Landlord the whole of the irrecoverable proportion of the insurance moneys if the Premises or any part is destroyed or damaged by an Insured Risk but the insurance moneys are irrecoverable in whole or part due to the act or default of the Tenant.

**6.2** If the Tenant fails to effect or maintain any of the insurances set out in Clause 6.1 above, the Landlord shall be entitled to effect such insurances and the Landlord shall be entitled to recover from the Tenant the full cost of the same including all Costs.

- 6.3** If the Premises are unfit for occupation or use because of damage or destruction by an Insured Risk then forthwith to pay for the cost of rebuilding and reinstating the Premises to their same state and condition as they were in at the commencement of the Term (fair wear and tear excepted) and in so far as the Tenant may receive insurance monies to lay out all monies received in respect of such insurance with all convenient speed in the building repairing or otherwise reinstating the same.
- 6.4** If the Premises are unfit for occupation or use because of damage or destruction by an Insured Risk then (save to the extent that insurance policies have been vitiated or payment of the insurance moneys is refused or withheld in whole or in part as a consequence of any act or default of the Tenant) the Principal Rent (or a fair proportion according to the nature and extent of the damage) shall be suspended until the earlier of (i) the date on which the Premises are reinstated so as to be substantially fit for occupation or use; and (ii) the expiry of the loss of rent insurance period. The Premises are not to be treated as unfit for occupation or use by reason only that the Tenant's trade fixtures and fittings have not been reinstated.
- 6.5** If, following a period of twenty-four months after the occurrence of a Force Majeure Event or following damage or destruction to the Premises so as to be unfit for occupation or use, the Landlord or the Tenant consider that it is impossible or impractical due to external causes beyond the control of the Tenant to reinstate the Premises, the Landlord or the Tenant may at any time after the date of such Force Majeure Event, damage or destruction give three (3) months' written notice to the other to terminate this Lease. On the date specified in the notice, this Lease shall forthwith cease and determine but without prejudice to any claims by either party in respect of any prior breach of their respective obligations in this Lease. Any insurance proceeds shall belong exclusively to the Landlord.

## **7 Provisos**

### **7.1 Forfeiture**

If any of the following events occur:

- 7.1.1** the Tenant fails to pay any of the rents or charges due and payable under this Lease within 21 (twenty-one) Working Days of the due date (whether or not formally demanded); or
- 7.1.2** the Tenant breaches any of its obligations in this Lease;

then the Landlord or any persons authorised by the Landlord at any time thereafter may re-enter the Premises or any part of the Premises in the name of the whole and forfeit this Lease and the Term created by this Lease shall absolutely cease and determine, but without prejudice to the rights of the Landlord in respect of any breach of the obligations by the Tenant contained in this Lease

PROVIDED THAT if there subsists a mortgage or a charge in respect of the Premises in favour of a Mortgagee which the Landlord has approved pursuant to Clause 4.10.8 and has received a copy pursuant to Clause 4.12.2, then so long as it has not been repaid, redeemed or released at the time of the breach, before commencing any proceedings for forfeiture of this Lease:

- (i) the Landlord shall serve written notice on the Mortgagee at its address in Gibraltar which has been notified in writing to the Landlord from time to time stating the Landlord's intention to forfeit the Lease specifying the breach complained of and providing the Mortgagee with the option to remedy the

breach, to enforce its security (whether by forfeiture or otherwise) or to confirm that it has no objection to the Landlord's exercise of its right of forfeiture (subject to such right to seek relief from forfeiture as may be available to any party with an interest in the Premises) provided that where the breach complained of is a breach of Clause 4.21.7 (which has not been remedied within the period of twelve (12) months after the service of the Landlord's notice under Clause 3.3.1) the Landlord agrees to make itself and/or the Landlord's Representative available on one occasion during the period of one (1) month from the date of the said notice to meet with and consult with the Mortgagee in good faith and discuss the level of the Financial KPI in comparison to the operational activity and cash flow generation ability of the business carried out at the Premises for the Permitted Use at the prevailing time prior to service of written notice under this Clause; and

- (ii) if the Mortgagee confirms in writing to the Landlord within one (1) month of service of the notice that it wishes to remedy the breach, the Landlord shall allow a further three (3) months to remedy the breach or such longer period as may in the circumstances be reasonable.

## **7.2 No Compensation**

Any statutory right for the Tenant or any undertenant to claim compensation from the Landlord on leaving the Premises is excluded to the extent allowed under the Landlord and Tenant Act.

## **7.3 Notices**

**7.3.1** Any notice or document to be given or served under this Lease shall be in writing and shall be given or served by hand delivery (duly receipted) or by registered post (in the case of a company) to its registered office or (in the case of an individual) to their last known address or upon any agent for the Landlord or the Tenant duly authorised in that behalf;

**7.3.2** Any such notice or document shall be deemed to have been validly given or served if delivered by hand on the date of delivery and if sent by registered post on the third Working Day after posting;

## **7.4 Escalation**

**7.4.1** In the event of any dispute or claim arising out of or in connection with this Lease or its subject matter or formation (including non-contractual disputes or claims) the Landlord (acting by itself or through the Surveyor) and the Tenant shall endeavour to reach a resolution of the same satisfactory to both parties. In the absence of such resolution, the Landlord's Representative and the Tenant's Representative shall meet to try to resolve the dispute or claim;

**7.4.2** If the dispute or claim relates to matters relating to the Environment either under Clause 5.3 of this Lease and/or Clauses 4.7.7 and/or Clause 4.15 of this Lease and is not resolved within sixty (60) Working Days of the meeting of the Landlord's Representative and the Tenant's Representative or if for any reason such meeting does not take place within ten (10) Working Days of either party requesting the meeting (or such longer period as may be agreed between the parties), then the dispute will be referred to expert determination by an Expert (acting as expert not arbitrator or mediator) by either party by serving a notice in writing on the other party

confirming that a dispute relating to the Environment has occurred and the parties shall within twenty (20) Working Days agree on the terms of the appointment of an independent Expert.

- 7.4.3** In the event that the Expert so appointed does not confirm their availability to act within ten (10) Working Days then any party may request the Chairperson of the Society for the Environment to suggest an alternative appointment until a person so identified confirms that they are willing and able to accept the appointment.
- 7.4.4** Any person appointed to act as an Expert shall at the time of confirming that they are willing and able to accept such appointment disclose to the parties any contact or relationship with any party and otherwise any duty or interest which does or may create a conflict or otherwise impinge upon the matters particularised in the notice. If any such disclosure is made, any party may object to the appointment within five (5) Working Days in which case the procedure for appointing an Expert shall be repeated.
- 7.4.5** The Expert shall act as an expert and not as mediator or as an arbitrator and the law relating to arbitration shall not apply to the Expert or his determination or the procedure by which he reaches his determination. The Expert shall determine the dispute referred to them acting impartially and in good faith.
- 7.4.6** The Expert will establish the procedural rules to be applied to the determination which shall accord with the following:
- (i) each party will be entitled to make submissions to the Expert and to supply the Expert with data and information which it considers to be relevant;
  - (ii) the Expert may request any party to provide them with such written or other statements, documents or information as he may require in order to determine the dispute referred to them and the parties shall comply promptly with any such request;
  - (iii) communications from a party to the Expert or from the Expert to a party shall be copied to the other parties at the same time and by the same method;
  - (iv) the parties may make written comments on each other's representations and will copy the written representations to the other parties;
  - (v) the Expert may make such inspections as they consider are necessary or appropriate;
  - (vi) the Expert shall not take into consideration any document or statement which has not been made available to the other parties for comment; and
  - (vii) a failure by a party to respond to any request or direction by the Expert shall not invalidate the Expert's determination.
- 7.4.7** Unless a shorter period is agreed between the parties at the time of the Expert's appointment, the Expert shall give his determination in writing with reasons within thirty (30) Working Days of his appointment or such later date as the Expert may determine. The Expert's statement of reasons for their determination shall identify the documentation, investigations and other evidence considered by the Expert in arriving at their determination.

- 7.4.8** The Expert's determination shall be final and binding on the Parties.
- 7.4.9** The costs of making good any damage to the Premises and the fees and expenses of the Expert shall be borne as follows:
- (i) in full by the Landlord, in the event that the Expert makes a determination that the Tenant has suffered loss or damages as a result of fuel and lubricating oils in the ground within the whole or part of the Premises existing on or prior to 17<sup>th</sup> February 1998 excluding the escape of leakage or discharge of such fuels or oils from Ministry of Defence ships pipes tankers containers contamination on the Premises for which the Landlord is liable to the Tenant pursuant to the Clause 5.4 of this Lease, or
  - (ii) in full by the Tenant, in the event that the Expert makes a determination that the Tenant is liable to the Landlord for breach of any one or more of Clauses 4.7.4, 4.7.5, 4.15 and/or Clause 4.18.2 of this Lease; or
  - (iii) 50% by the Landlord and 50% by the Tenant, if the Expert has not been able to make a determination in favour of either party.
- 7.4.10** If the dispute or claim does not relate to the Environment under Clause 5.4 of this Lease and/or any one or more of Clauses 4.7.4, 4.7.5, 4.15 and/or Clause 4.15 of this Lease and is not resolved within sixty (60) Working Days of the meeting of the Landlord's Representative and the Tenant's Representative or if for any reason such meeting does not take place within ten (10) Working Days of either party requesting the meeting (or such longer period as may be agreed between the parties), then the dispute may, at either party's request be referred to mediation by an Expert (acting as mediator) in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure by giving notice in writing to the other party to try to resolve the dispute or claim which mediation shall start not later than twenty (20) Working Days from the date of the request (or such later date as the Expert may determine);
- 7.4.11** In the absence of a determination by the Expert as to their costs and fees, they shall be borne equally by the Landlord and the Tenant;
- 7.4.12** If the Expert is ready to make their decision, but is unwilling to do so due to one party's failure to pay its share of the costs in connection with the decision, the other party may serve on that party a notice requiring that party to pay such costs within ten (10) Working Days, and if that party fails to comply with such notice the other party may pay to the Expert that party's share of the costs and any amount so paid shall be a debt due forthwith from that party to the other party;
- 7.4.13** If either party refuses or fails to participate in the mediation process or if a resolution of the dispute is not reached within sixty (60) Working Days, the courts of Gibraltar shall finally resolve the dispute or claim;
- 7.5 No Implied Easements**
- 7.5.1** The grant of this Lease does not confer any rights over any other property except those mentioned in Part I of the First Schedule;
- 7.5.2** Nothing in this Lease shall impliedly confer on or grant to the Tenant any easement, right or privilege other than those expressly granted by this Lease, in particular, without prejudice to the foregoing, any right or easement which would interfere with

or restrict the free use for building or otherwise of the adjoining or neighbouring property;

## **7.6 Planning Acts**

- 7.6.1** The Landlord does not warrant that the Permitted Use complies with the Planning Acts;
- 7.6.2** Nothing contained in this Lease shall imply or warrant that the Premises are authorised to be used for the Permitted Use;
- 7.6.3** The Tenant acknowledges that the Development and Planning Commission is an independent statutory body and that the Landlord has no influence over any decisions taken by the Development and Planning Commission.

## **7.7 Disposal of Tenant's goods left in the Premises**

- 7.7.1** If the Tenant fails to remove the Tenant's Fixtures and Fittings and its goods from the Premises at the end of the Term the Landlord may, as agent of the Tenant (hereby irrevocably appointed), remove and sell such goods and hold the proceeds of sale (after deducting Costs of removal, storage and sale incurred by the Landlord) to the order of the Tenant;
- 7.7.2** The Tenant will indemnify the Landlord against any liability to any third party whose goods are sold by the Landlord in the bonafide mistaken belief (which shall be presumed unless the contrary is proved) having been left at the Premises at the end of the Term.

## **8 Guarantee**

- 8.1** The Guarantor covenants with the Landlord in the terms set out in the Third Schedule provided that Balaena Ltd as original guarantor shall not be bound by paragraphs 9 and 10 of the Third Schedule and provided further that the Guarantor's liability under this Clause shall be no greater than a sum equivalent to two years' Principal Rent applicable at the time of the Landlord's notice to the Guarantor of any default of the Tenant in paying the rents and/or performing its obligations under this Lease;
- 8.2** The Guarantor will ensure that upon any transaction to which it is a party or over which it has any control involving a transfer in the legal or beneficial ownership of the shares of the Guarantor that the transferee of such shares and such other persons as the Landlord reasonably require act as guarantors for the transferee enters into direct covenants with the Landlord that as from the date of such transfer and during the remainder of the Term the transferee will fully and effectually observe and perform the Tenant's covenants set out in this Lease including the provisions set out in the Third Schedule (with such amendments and additions as the Landlord may reasonably require);

## **9 Exclusion of Landlord's liability**

The Landlord shall have no liability to the Tenant or any other person for any injury suffered or for any damage or loss of any goods or property sustained in the Premises or by reason of repair or maintenance or other works to the Premises or any other cause beyond the

Landlord's control except where such occurrence is due to the gross negligence of the Landlord and is not due to any act or default of the Tenant;

## **10 Tenant's acknowledgement**

The Tenant acknowledges that it has not entered into this Lease in reliance on any representation, observation or statement made by or on behalf of the Landlord or those authorised by it.

## **11 Confidentiality**

The Landlord may not disclose any information obtained from the Tenant's reports except to the extent necessary for the purposes of ensuring compliance with the Tenant's covenants in this Lease or in order to comply with any lawful requirements of any competent authority or court of law.

## **12 Variation and waiver**

- 12.1** Any variation of this Lease shall be in writing and signed by or on behalf of all parties.
- 12.2** A waiver of any right under this Lease is only effective if it is in writing and it applies only to the person to which the waiver is addressed and the circumstances for which it is given.
- 12.3** A person that waives a right in relation to one person, or takes or fails to take any action against that person, does not affect its rights against any other person.
- 12.4** No failure to exercise or delay in exercising any right or remedy provided under this Lease or by law constitutes a waiver of such right or remedy or shall prevent any future exercise in whole or in part thereof.
- 12.5** No single or partial exercise of any right or remedy under this Lease shall preclude or restrict the further exercise of any such right or remedy.
- 12.6** Unless specifically provided otherwise, rights and remedies arising under this Lease are cumulative and do not exclude rights and remedies provided by law.

## **13 Severance**

- 13.1** If any provision of this Lease (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force;
- 13.2** If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted or modified, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

## **14 Governing law and jurisdiction**

- 14.1** This Lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Gibraltar.



**14.2** Each party irrevocably agrees that the courts of Gibraltar shall have exclusive jurisdiction over any dispute or claim that arises out of or in connection with this Lease or its subject matter or formation (including non- contractual disputes or claims).

This Deed is delivered the day and year first before written.

## **The First Schedule**

### **Part I – Easements and Other Rights granted**

There are granted to the Tenant (in common with others authorised by the Landlord) in accordance with such rules and regulations from time to time made by the Landlord:

1. The right to shelter support and protection to the extent that the adjoining or neighbouring property provides shelter support and protection to the Premises at the date of this Lease
2. The right to all easements and quasi-easements rights and benefits of a similar nature presently enjoyed or intended to be enjoyed by the Premises for the benefit of the Premises
3. Free and uninterrupted use of all existing and future Conduits which serve the Premises including but not limited to the right of passage and running of water soil gas fuel and electricity to and from the Premises through sewers drains channels pipes conduits and cable on in or under the adjoining or neighbouring land held by the Landlord subject to the Landlord's right to re-route the same
4. The right of the Tenant its employees agents customers and persons authorised by the Tenant at all times to unobstructed and continued right of passage to and from the Premises and to and from the workshop building forming part of the Premises together with motor vehicles with or without trailer and plant or equipment up to a weight of 200 tonnes by land and by such roads and gateways on the lands in all cases through the land of the Landlord adjacent to the Premises as shall be agreed between the parties provided that nothing herein contained shall interfere with the Tenant's rights of access
5. The right of the Tenant its employees agents customers and persons authorised by the Tenant at all times to unobstructed and continued right of passage to and from the Premises and to and from the Pump House forming part of the Premises together with motor vehicles with or without trailer and plant or equipment up to a weight of 200 tonnes by land through the South Gate and of such similar or other vehicles trailer plant and equipment in excess of the above mentioned weight through the Queensway and by such roads and gateways on the lands in all cases through the land of the Landlord adjacent to the Premises as shall be agreed between the parties provided that nothing herein contained shall interfere with the Tenant's rights of access
6. The right of reasonable access with or without workers and equipment to the Pump House its installations and to the areas immediately surrounding the same for the purpose of inspecting the condition of the same and carrying out such works as shall be required for their maintenance and repair.
7. The right of the Tenant its employees agents customers and persons authorised by the Tenant at all times to unobstructed and continued right of passage by sea in vessels of any flag or registry sailing to or from the Premises not exceeding a draught of 40 feet for the purpose of docking repairs or otherwise in the course of the business carried out at the Premises subject to compliance with all applicable statute, laws and regulations governing the use of same and subject also to compliance with the lawful instructions from the Captain of the Port or the Queen's Harbour Master the right of passage through and the use of the adjoining waters leading to and from the Premises.

8. The right of the Tenant its servants or agents with or without vehicles plant tools and equipment of access and entry upon under or over lands or buildings adjacent to the Premises for the purposes of carrying out such works of maintenance repair improvement or renewal of cables ducts wires pipes substations and installations which connect with and service the Premises and particularly the Workshop Building and the Pump House and the dry docks and further to execute such works in connection with such maintenance repair improvement or renewal as the Tenant may from time to time require subject to the Tenant making good any damage caused to such adjacent lands or buildings.

## **Part II – Exceptions and Reservations**

There are excepted and reserved to the Landlord provided that they do not materially adversely affect the use and enjoyment of the Premises for the Permitted Use:

1. Free and uninterrupted use of all existing and future Conduits which are in the Premises and serve the adjoining or neighbouring or surrounding property and the right to re-route any Conduits which serve the Premises
2. The right of passage and running of water soil gas fuel electricity as heretofore used and enjoyed to and from other lands held by the Ministry of Defence and/or the Landlord through the Reserved Services.
3. The waters and the sea bed
4. The right of light air support and protection for adjoining and neighbouring land;
5. The right to carry out any building, rebuilding, alteration or other works (including the erection of scaffolding) notwithstanding interference with light and air enjoyed by the Premises;
6. The rights to enter on the Premises for the purposes referred to in Clause 4.16 (entry upon Premises) including all easements and quasi easements rights and benefits of a similar nature presently enjoyed or intended to be enjoyed by adjacent and other land over the Premises for the benefit of adjacent or other land provided that save as is expressly granted no easement of way shall be created in respect of the South Mole
7. The right of access to the Ministry of Defence both vehicular and pedestrian at all times and for all reasonable purposes through the Premises for the benefit of the adjoining land owned by the Ministry of Defence provided that the exercise of such right of access herein reserved shall not unreasonably interfere with the business carried out at the Premises and the Tenant shall notify the Landlord of any exercise of this right
8. All Reserved Services including the substations and transformers of the Ministry of Defence which benefit the Premises and/or the adjoining land owned by the Ministry of Defence
9. The right of access to OESCO Limited, Gibraltar Electricity Authority and any subcontractor that they may nominate both vehicular and pedestrian at all times and for all reasonable purposes through the Premises for the benefit of the adjoining land shown on the plan coloured yellow annexed hereto provided that the exercise of such

right of access herein reserved shall not unreasonably interfere with the business carried out at the Premises.

10. The right of access to the Landlord both vehicular and pedestrian at all times and for all reasonable purposes to unobstructed and continued right of passage through the Premises to and from the Main Wharf including berth Nos. 43 and 44 with reasonable prior notice (except in the case of an emergency) provided that the exercise of such right of access herein reserved shall not unreasonably interfere with the business carried out at the Premises.
11. The right of access to the Landlord in respect of the voids under the road marked C and D on the plan annexed hereto both vehicular and pedestrian at all times and for all reasonable purposes through the Premises for the benefit of the adjoining land owned by the Landlord provided that the exercise of such right of access herein reserved shall not unreasonably interfere with the business carried out at the Premises

## The Second Schedule

### Part I – Stepped Rent

- 1 In this Schedule:
  - 1.1 **Net Profits** means such sum as is shown in the accounts relating to the trade or business of any nature carried out in whole or in part at, in or from the Premises by the Tenant, a Group Company or any other person for a relevant financial year to constitute the profits arising from the trade or business carried out at the Premises before deducting all corporate tax, and after taking into account the instalments for the relevant financial year and all actual interest amortisation incurred with the operation of the trade or business carried out from the Premises, including any arm's length financing charges with related parties but excluding all other related party transactions or charges and also excluding any non-arm's length transactions or charges;
  - 1.2 **Statement** means a statement of the Net Profits (in such form as the Landlord may reasonably require) for the preceding relevant financial year prepared at the Tenant's cost signed by the Tenant's Representative;
  - 1.3 **Certificate** means a certificate signed by a professionally qualified independent auditor appointed by the Tenant accurately certifying the actual Net Profits for a relevant financial year prepared at the Tenant's cost signed by the Tenant's Representative;
  - 1.4 **Tenant's Percentage** means fifteen per centum (15%) of the Net Profits;
  - 1.5 **Maximum Amount** means each of the sums set out in (i) below in respect of the relevant year of the Term;
  - 1.6 **Minimum Amount** means each of the sums set out in (ii) below in respect of the relevant year of the Term.
- 2 During the first year of the Term, the Stepped Rent shall be payable by way of two instalments with the first instalment being a single payment in the amount of £50,000 payable by the Tenant ("**Year 1 First Instalment**"), and the second instalment being calculated as the balance remaining after deducting the amount of £50,000.00 from the Tenant's Percentage for the first year of the Term as determined in accordance with the Statement ("**Year 1 Second Instalment**"). The Year 1 First Instalment shall be payable by the Tenant within 30 Working Days of the date of this Lease. The Year 1 Second Instalment shall be paid in 4 equal tranches with each such tranche being added to each of the quarterly Stepped Rent payments due and payable by the Tenant during the second year of the Term and paid by the Tenant accordingly, provided always that the Year 1 Second Instalment shall be limited to a maximum aggregate additional payment of £200,000.00 and, in the event that the Tenant's Percentage for the first year of the Term is less than £50,000.00 no Year 1 Second Instalment payment shall be due and payable by the Tenant
- 3 From, and including, the second year of the Term up to (but excluding) the first Review Date the Stepped Rent shall be the Tenant's Percentage in respect of each year of the Term as calculated based on the Net Profits as certified in the Certificate for the relevant year of the Term unless and save that:

- 3.1 During the second year of the Term, (i) this sum is less than £50,000.00 in which case the Stepped Rent shall be £50,000.00 per annum or (ii) this sum is more than £250,000.00 in which case the Stepped Rent shall be £250,000.00 per annum during the second year of the Term
- 3.2 During the third year of the Term, (i) this sum is less than £80,000.00 in which case the Stepped Rent shall be £80,000.00 per annum or (ii) this sum is more than £400,000.00 in which case the Stepped Rent shall be £400,000.00 per annum during the third year of the Term;
- 3.3 During the fourth year of the Term, (i) this sum is less than £85,000.00 in which case the Stepped Rent shall be £85,000.00 per annum or (ii) this sum is more than £425,000.00 in which case the Stepped Rent shall be £425,000.00 per annum during the fourth year of the Term:
- 3.4 During the fifth year of the Term, (i) this sum is less than £90,000.00 in which case the Stepped Rent shall be £90,000.00 per annum or (ii) this sum is more than £450,000.00 in which case the Stepped Rent shall be £450,000.00 per annum during the fifth year of the Term;
- 3.5 During the sixth year of the Term, (i) this sum is less than £95,000.00 in which case the Stepped Rent shall be £95,000.00 per annum or (ii) this sum is more than £475,000.00 in which case the Stepped Rent shall be £475,000.00 per annum during the sixth year of the Term; and
- 3.6 During the seventh year of the Term, (i) this sum is less than £100,000.00 in which case the Stepped Rent shall be £100,000.00 per annum or (ii) this sum is more than £500,000.00 in which case the Stepped Rent shall be £500,000.00 per annum during the seventh year of the Term..
- 4 The Landlord and Tenant hereby agree that the Stepped Rent shall not be less than the Minimum Amount nor more than the Maximum Amount in any year of the Term from and including the second year of the Term up to (but excluding) the first Review Date and shall be due and payable by the Tenant as follows:
- 4.1 During the second year of the Term the Stepped Rent shall be payable by way of two instalments with the first instalment being a payment in the amount of the Tenant's Percentage for the first year of the Term as determined in accordance with the Statement for that year (the "**Year 2 First Instalment**") and the second instalment being calculated as the balance remaining after deducting the Year 2 First Instalment from the Tenant's Percentage for the second year of the Term as determined in accordance with the Statement for that year (the "**Year 2 Second Instalment**"). The Year 2 First Instalment shall be payable by the Tenant in 4 equal quarterly instalments during the second year of the Term. The Year 2 Second Instalment shall be divided into 4 equal quarterly tranches and each tranche shall be adjusted by way of a deduction or addition (as the case may be) to the quarterly Stepped Rent payments payable by the Tenant during the third year of the Term as provided for herein;
- 4.2 During the third year of the Term the Stepped Rent shall be payable by way of two instalments with the first instalment being a payment in the amount of the Tenant's Percentage for the second year of the Term as determined in accordance with the Statement for that year (the "**Year 3 First Instalment**") and the second instalment being calculated as the balance remaining after deducting the Year 3 First Instalment from the Tenant's Percentage for the third year of the Term as

determined in accordance with the Statement for that year (the "**Year 3 Second Instalment**"). The Year 3 First Instalment shall be payable by the Tenant in 4 equal quarterly instalments during the third year of the Term. The Year 3 Second Instalment shall be divided into 4 equal quarterly tranches and each tranche shall be adjusted by way of a deduction or addition (as the case may be) to the quarterly Stepped Rent payments payable by the Tenant during the fourth year of the Term as provided for herein;

- 4.3 During the fourth year of the Term the Stepped Rent shall be payable by way of two instalments with the first instalment being a payment in the amount of the Tenant's Percentage for the third year of the Term as determined in accordance with the Statement for that year (the "**Year 4 First Instalment**") and the second instalment being calculated as the balance remaining after deducting the Year 4 First Instalment from the Tenant's Percentage for the fourth year of the Term as determined in accordance with the Statement for that year (the "**Year 4 Second Instalment**"). The Year 4 First Instalment shall be payable by the Tenant in 4 equal quarterly instalments during the fourth year of the Term. The Year 4 Second Instalment shall be divided into 4 equal quarterly tranches and each tranche shall be adjusted by way of a deduction or addition (as the case may be) to the quarterly Stepped Rent payments payable by the Tenant during the fifth year of the Term as provided for herein;
- 4.4 During the fifth year of the Term the Stepped Rent shall be payable by way of two instalments with the first instalment being a payment in the amount of the Tenant's Percentage for the fourth year of the Term as determined in accordance with the Statement for that year (the "**Year 5 First Instalment**") and the second instalment being calculated as the balance remaining after deducting the Year 5 First Instalment from the Tenant's Percentage for the fifth year of the Term as determined in accordance with the Statement for that year (the "**Year 5 Second Instalment**"). The Year 5 First Instalment shall be payable by the Tenant in 4 equal quarterly instalments during the fifth year of the Term. The Year 5 Second Instalment shall be divided into 4 equal quarterly tranches and each tranche shall be adjusted by way of a deduction or addition (as the case may be) to the quarterly Stepped Rent payments payable by the Tenant during the sixth year of the Term as provided for herein;
- 4.5 During the sixth year of the Term the Stepped Rent shall be payable by way of two instalments with the first instalment being a payment in the amount of the Tenant's Percentage for the fifth year of the Term as determined in accordance with the Statement for that year (the "**Year 6 First Instalment**") and the second instalment being calculated as the balance remaining after deducting the Year 6 First Instalment from the Tenant's Percentage for the sixth year of the Term as determined in accordance with the Statement for that year (the "**Year 6 Second Instalment**"). The Year 6 First Instalment shall be payable by the Tenant in 4 equal quarterly instalments during the sixth year of the Term. The Year 6 Second Instalment shall be divided into 4 equal quarterly tranches and each tranche shall be adjusted by way of a deduction or addition (as the case may be) to the quarterly Stepped Rent payments payable by the Tenant during the seventh year of the Term as provided for herein;
- 4.6 During the seventh year of the Term the Stepped Rent shall be payable by way of two instalments with the first instalment being a payment in the amount of the Tenant's Percentage for the sixth year of the Term as determined in accordance with the Statement for that year (the "**Year 7 First Instalment**") and the second instalment being calculated as the balance remaining after deducting the Year 7

First Instalment from the Tenant's Percentage for the seventh year of the Term as determined in accordance with the Statement for that year (the "**Year 7 Second Instalment**"). The Year 7 First Instalment shall be payable by the Tenant in 4 equal quarterly instalments during the seventh year of the Term. The Year 7 Second Instalment shall be divided into 4 equal quarterly tranches and each tranche shall be adjusted by way of a deduction or addition (as the case may be) to the quarterly Revised Rent payments payable by the Tenant during the eighth year of the Term.

- 5 The Tenant shall provide the Statement to the Landlord on within 40 Working Days after the end of the relevant year and the Tenant shall provide such further information as the Landlord may reasonably require after any relevant year in relation to the Net Profits for that year in a timely manner and, in any event within 5 Working Days of the Landlord's written request.
- 6 If no Statement has been notified to the Landlord, the amounts used to calculate the Year 2 Second Instalment, the Year 3 Second Instalment, the Year 4 Second Instalment, the Year 5 Second Instalment, the Year 6 Second Instalment and/or the Year 7 Second Instalment shall be the Maximum Amount in respect of the relevant year in lieu of the Tenant's Percentage for the previous year of the Term.
- 7 The Tenant shall procure that the Certificate accurately states the amount of Net Profits for the preceding financial year. The Tenant shall provide the Landlord with the Certificate relating to the preceding financial year within 20 Working Days of the date of completion of the relevant audited accounts.
- 8 The Tenant shall pay on demand to the Landlord within 20 Working Days of the issuance of the Certificate the difference between the Stepped Rent (as such Stepped Rent is updated / adjusted having regard to the Certificate) and the quarterly rental instalments actually paid by the Tenant to the Landlord in the relevant year.
- 9 If no Certificate has been provided, the Tenant shall pay the difference between the Maximum Amount in the relevant year of the Term and the quarterly rental instalments paid by the Tenant that year together with interest on such difference at the Base Rate from the beginning of the relevant year of the Term to the date of payment.
- 10 The difference shall be payable to the Landlord within 20 Working Days of the date of the Certificate, together with interest on such difference at the Base Rate from the beginning of the relevant year of the Term to the date of payment. Any overpayment shall be credited by the Landlord to the subsequent quarter's rental payment in the next year of the Term.
- 11 In the event of a disagreement between the Landlord (acting through itself or the Surveyor) and the Tenant as to the amount of the Stepped Rent, the Landlord's Representative and the Tenant's Representative shall meet within a period of 10 working days from the date of such disagreement and shall use reasonable endeavours to agree the Stepped Rent.
- 12 In the absence of agreement between the Landlord's Representative and the Tenant's Representative as set out in paragraph 11 above, the Stepped Rent shall be determined by an Expert (acting as expert not as arbitrator) on the application of either the Landlord or the Tenant who will be instructed to:
  - (i) afford the Landlord and the Tenant the opportunity to make written representations to the Expert and comment upon written representations received by the Expert;



- (ii) set an applicable timetable in respect to the same; and
  - (iii) give written reasons for his decision;
- 13 If an Expert dies, refuses to act or becomes incapable of acting, or if they fail to notify the parties of their determination within two (2) months after receiving the last submission delivered to them, either the Landlord or the Tenant may apply to the President of the Institute of Chartered Accountants or to the President for the time being of the Royal Institution of Chartered Surveyors (as the case may be) to discharge them and appoint another in their place;
- 14 The fees and expenses of the Expert shall be paid by the Landlord and the Tenant in such shares as the Expert shall decide (or in equal shares if the Expert does not decide this point); if one party pays all the Expert's fees and expenses, the paying party may recover the other's share from the other party, in the case of the Landlord, as arrears of rent.
- 15 Time shall not be of the essence for the purposes of this Part of this Schedule.

## **Part II – Rent Review**

- 1 The Reduced Rent, the Market Rent or the Ceiling Rent (as the case may be) shall be increased on each Review Date in relation to each respective period of three (3) years to the Reduced Rent, the Market Rent or the Ceiling Rent (as the case may be) as increased by the percentage by which the Index shall have increased since the previous Review Date (the **Revised Rent**).
2. The Landlord shall calculate the Revised Rent and shall give the Tenant written notice of the Revised Rent as soon as reasonably practicable and if the Revised Rent has not been calculated by the Landlord and notified to the Tenant before the relevant Review Date, the Tenant shall pay the following sums:
- (i) the Reduced Rent, the Market Rent or the Ceiling Rent (as the case may be) at the rate payable immediately before the relevant Review Date until the Revised Rent has been calculated by the Landlord and notified to the Tenant;
  - (ii) the shortfall between the amount of the Reduced Rent, the Market Rent or the Ceiling Rent (as the case may be) that the Tenant has paid for the period from and including the relevant Review Date and the amount of Reduced Rent, Market Rent or the Ceiling Rent (as the case may be) for that period which would have been payable had the Revised Rent been calculated by the Landlord and notified to the Tenant on or before the relevant Review Date; and
  - (iii) interest at the Base Rate on such shortfall computed from the relevant Review Date to the date of payment.
3. The Landlord and Tenant shall sign and exchange a memorandum recording the Revised Rent for which each party will bear their own costs.
4. Time shall not be of the essence for the purposes of this Part of this Schedule.

5. Subject to paragraph 6 below, if there is any change to the methods used to compile the RPI including any change to the items from which the Index is compiled or if the reference base used to compile the Index changes, the calculation of the Revised Rent shall be made taking into account the effect of this change.
6. The Landlord and the Tenant shall endeavour, within a reasonable time, to agree an alternative mechanism for determining the Revised Rent if either: (i) the Landlord or the Tenant reasonably believes that any change referred in paragraph 5 above would fundamentally alter the calculation of the Revised Rent in accordance with this Schedule and has given notice to the other of the same; or (ii) it becomes impractical or impossible to calculate the Revised Rent in accordance with this Schedule.
7. This alternative mechanism may (where reasonable) include, or consist of, substituting an alternative index for the Index.
8. In the absence of agreement between the Landlord and the Tenant, the alternative mechanism shall be determined by an Expert (acting as expert not as arbitrator) on the application of either the Landlord or the Tenant who will be instructed to:
  - (i) afford the Landlord and the Tenant the opportunity to make written representations to the Expert and comment upon written representations received by the Expert; and
  - (ii) give written reasons for his decision;
9. If an Expert dies, refuses to act or becomes incapable of acting, or if he fails to notify the parties of his determination within two (2) months after receiving the last submission delivered to him, either the Landlord or the Tenant may apply to the President of the Institute of Chartered Accountants or to the President for the time being of the Royal Institution of Chartered Surveyors (as the case may be) to discharge them and appoint another in their place;
10. The fees and expenses of the Expert shall be paid by the Landlord and the Tenant in such shares as the Expert shall decide (or in equal shares if the Expert does not decide this point); if one party pays all the Expert's fees and expenses, the paying party may recover the other's share from the other party, in the case of the Landlord, as arrears of rent.

## **The Third Schedule**

### **Guarantee**

- 1 The Guarantor covenants with the Landlord as principal debtor that:
  - 1.1 Throughout the Term or until the Tenant is released from its covenants by law:
    - 1.1.1 The Tenant will pay the rents reserved by and perform its obligations contained in this Lease;
    - 1.1.2 The Guarantor will indemnify the Landlord on demand against all Costs arising from any default of the Tenant in paying the rents and performing its obligations under this Lease;
- 2 The liability of the Guarantor shall not be affected by:
  - 2.1 any time given to the Tenant or any failure by the Landlord to enforce compliance with the Tenant's covenants and obligations;
  - 2.2 the Landlord's refusal to accept rent at a time when it would or might have been entitled to re-enter the Premises;
  - 2.3 any variation of the terms of this Lease whether or not the same is substantial or is prejudicial to the Guarantor or confers only a personal right or obligation and whether or not the Guarantor's consent was obtained) and the Guarantor's covenants shall apply to this Lease as varied;
  - 2.4 any change in the constitution, structure or powers of the Guarantor the Tenant or the Landlord or the administration, liquidation or bankruptcy of the Tenant or Guarantor;
  - 2.5 any act which is beyond the powers of the Tenant;
  - 2.6 the surrender of part of the Premises;
  - 2.7 the transfer of the reversion expectant on the Term;
  - 2.8 any other act or thing by which (but for this provision) the Guarantor would have been released other than a deed of release in favour of the Guarantor.
- 3 Where two or more persons have guaranteed obligations of the Tenant the release of one or more of them shall not release the others.
- 4 The Guarantor shall not be entitled to participate in any security held by the Landlord in respect of the Tenant's obligations or stand in the Landlord's place in respect of such security.
- 5 The Guarantor covenants that they have not taken nor will it take any security from the Tenant in respect of this Lease and in the event that security is nevertheless taken it is to be held on trust for the Landlord for the security of the Guarantor's and the Tenant's obligations under this Lease.
- 6 The Guarantor shall not (in competition with the Landlord):
  - (i) seek to recover from the Tenant or to exercise any rights in respect of any sum which may become due to the Guarantor as a result of the Tenant's failure to observe and perform its covenants;
  - (ii) claim, prove or accept any payment in a winding up liquidation or any arrangement on the insolvency of the Tenant.
- 7 The Guarantor shall not exercise any right or remedy in respect of any amounts paid or liabilities incurred in observing, performing or discharging the Tenant's covenants.

- 8 If an act of insolvency occurs in relation to the Guarantor, the Tenant shall procure that a person of standing acceptable to the Landlord, enters into an additional guarantee and indemnity of the Tenant's covenants under this Lease in the same form as this Guarantee.
- 9 If this Lease is disclaimed, and if the Landlord within 6 months of the disclaimer requires in writing, the Guarantor will enter into a new lease of the Premises at the cost of the Guarantor on the terms of this Lease (but as if this Lease had continued and so that any outstanding matters relating to rent review or otherwise shall be determined as between the Landlord and the Guarantor) for the residue of the Contractual Term from and with effect from the date of the disclaimer.
- 10 If this Lease is forfeited and the Landlord within 6 months of forfeiture requires in writing the Guarantor will (at the option of the Landlord):
  - 10.1 enter into a new lease of the Premises at the cost of the Guarantor on the terms of this Lease (but as if this Lease had continued and so that any outstanding matters relating to rent review or otherwise shall be determined as between the Landlord and the Guarantor) for the residue of the Contractual Term from and with effect from the date of the forfeiture; or
  - 10.2 pay to the Landlord on demand an amount equal to the moneys which would otherwise have been payable under this Lease until the earlier of 6 months after the forfeiture and the date on which the Premises are fully relet.
- 11 In the event that the Guarantor notifies the Landlord in writing that they wish to be released from their obligations subject to the Tenant procuring a guarantor of at least equivalent financial standing and otherwise acceptable to the Landlord (acting reasonably) enters into a direct covenant with the Landlord and the Tenant including the provisions set out in this Schedule (with such amendments and additions as the Landlord may reasonably require) the Landlord may in its absolute discretion enter into a deed to release the Guarantor from its obligations.

**The Fourth Schedule**  
**Extenuating Works Licence**

**PARTICULARS**

1	<b>Date</b>	20__
2	<b>Parties</b>	
	Landlord	[       ]
	Tenant	[       ]
3	<b>Lease</b>	
	Date	[       ]
	Parties	(1) (2) (3)
	Premises	[       ], Gibraltar
	Term	[       ] years from and including [   ]

**THIS DEED** made on the date and between the parties specified in the Particulars **Witnesses** as follows:

**WHEREAS**

- (A) The Tenant intends to carry out the Works and, under the terms of the Lease, requires the consent of the Landlord to do so.

**1 Definitions**

In this Deed:

- 1.1 **Claims** means all claims, demands, proceedings, damages and losses;
- 1.2 **Daylight Hours** means 8am – 8pm;
- 1.3 **Landlord** and **Tenant** mean the parties so named in the Particulars and include their successors in title;
- 1.4 **Lease** means the Lease referred to in the Particulars and includes documents supplemental to or entered into pursuant to it;
- 1.5 the **Premises** means the premises demised by the Lease referred to in the Particulars;
- 1.6 **Working Day** means any day from Monday to Friday (inclusive) other than any public holiday in Gibraltar;
- 1.7 the **Works** means the blasting, painting or spraying intended to be carried out outside the Daylight Hours or emergency ship repair works and/or ship repair

works for Her Majesty's Naval Service and any other noisy or noxious works or works which may be a nuisance or results in injurious vibrations or excessive light fumes and/or emissions or otherwise causes damage or annoyance or inconvenience or disturbance to the Landlord or to owners, tenants and/or occupiers of any adjoining or neighbouring property works the intended to be carried out outside the Daylight Hours which works are described in the Schedule;

## **2 Acknowledgement**

- 2.1 The Tenant has given notice in writing to the Landlord that there exist extenuating circumstances (and the particulars of the same) and as a result the Tenant requests that the Works are carried out outside the Daylight Hours and has notified the Landlord of the dates and the anticipated duration of the Works.
- 2.2 In consideration of the obligations on the Tenant in this Deed, the Landlord **hereby acknowledges** that the Tenant may carry out the Works at the Premises on the dates and for the duration specified in the Tenant's notice to the Landlord referred to in Clause 2.1 above subject to the rights of the owners tenants and occupiers of any adjoining property and other interested persons;

## **3 Tenant's covenants**

The Tenant **hereby covenants** with the Landlord:

- 3.1 that before commencing the Works at the Tenant's expense the Tenant will communicate or make it known to the tenants owners or occupiers of any adjoining or neighbouring property that there exist extenuating circumstances and as a result the Works are intended to be carried out outside the Daylight Hours and the anticipated duration of the Works;
- 3.2 the Tenant will carry out the Works take all necessary steps and precautions so as to use its best endeavours to carry out the Works in manner that is sensitive to and causes as little nuisance annoyance disturbance and inconvenience as possible to the Landlord or the tenants owners or occupiers of any adjoining or neighbouring property and for any disruption to be kept to a minimum;
- 3.3 that in carrying out the Works the Tenant will comply with all laws applicable in Gibraltar and terms of all licences consents and permissions and all good environmental and Best Industry Practice (as defined in the Lease), codes and guidance and all reasonable regulations made and varied by the Landlord from time to time;
- 3.4 the Tenant will use its best endeavours to complete the works within the anticipated duration of the Works previously communicated to the Landlord and communicated or made known to the tenants owners or occupiers of any adjoining or neighbouring property;
- 3.5 to make good all damage caused to the Premises or adjoining or neighbouring premises or the Landlord's fixtures and fittings or plant or machinery to the reasonable satisfaction of the Landlord;

- 3.6 to provide the Landlord at least five (5) Working Days prior notice of the commencement and completion of the Works (except in an emergency);
- 3.7 to provide the Landlord (or the Landlord's agents) with an update on the progress of the Works;
- 3.8 to supply the Landlord at no charge with any information which the Landlord may reasonably require in order to satisfy itself that the Tenant's covenants in this Deed have been complied with;

#### **4 Indemnity**

The Tenant shall make good to the Landlord on demand, and indemnify the Landlord against all Costs, expenses, liabilities, damages and losses suffered or incurred by the Landlord arising out of or in connection with any breach of the terms of this Deed.

#### **5 Governing law and jurisdiction**

This Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Gibraltar. Each party irrevocably agrees that the courts of Gibraltar shall have exclusive jurisdiction over any dispute or claim that arises out of or in connection with this Deed or its subject matter or formation (including non- contractual disputes or claims).

Executed by the parties as a **Deed** the day and year first before written.

#### **Schedule Works**

## **The Fifth Schedule**

### **Permitted Jurisdictions**

1. Australia
2. Sweden
3. Switzerland
4. Turkey
5. Canada
6. Chile
7. Czech Republic
8. Israel
9. United Kingdom
10. Italy
11. Japan
12. France
13. Germany
14. Greece
15. Hungary
16. Iceland
17. Ireland
18. New Zealand
19. Norway
20. Poland
21. Portugal
22. Slovak Republic
23. Korea
24. Luxembourg
25. Mexico
26. Netherlands
27. Denmark
28. Estonia
29. Finland
30. Slovenia
31. United States



32. Austria
33. Belgium
34. Any other country that becomes a member of the Organisation for Economic Cooperation and Development after the date of this Lease or such other country as may be agreed by the Landlord and the Tenant in writing from time to time.

### The Sixth Schedule

#### Landlord's Fixtures and Fittings

SW19	STEEL WORKING BENCH WITH VICE
SW21	FIRE HOSE REEL COMPLETE WITH HOSES – 3 IN NO
SW22	FIRE HOSES COMPLETE WITH ADAPTORS – 6 IN NO
SW28	ROAD LINE MARKERS
M25612	MORRIS 5 TON (6.3)
M25808	ATLAS COPCO GA75 COMPRESS
M25822	3T AIR HOIST
M11311	SOUTH MOLE RUBBER FENDERS
M11325	NO 1 DOCK ACCESS TOWERS
M13001	SOUTH MOLE SUB-STATION (NEW SWITCHBOARD)
M13053	YARD LIGHTING SOUTH MOLE
M13054	YARD LIGHTING NO.1 DOCK
M13055	YARD LIGHTING NO.2 DOCK
M13056	YARD LIGHTING NO.3 DOCK
M13057	YARD LIGHTING MAIN WHARF
M13058	YARD FLOOD LIGHTING TOWERS
M13059	H.P SALT WATER PMP HSE ELEC INSTALL
M13083	DOCK PUMP HSE ELEC INSTALLATION
M13084	NO'S 1 2 & 3 CRANES PLUG-IN POINTS (5)
M13085	NO.5 CRANE FIX POWER SUPPLY POINT
M13086	NO.6 CRANE PLUG IN POINTS (2)
M13087	NO.7 CRANE PLUG IN POINTS (2)
M13088	NO.8 CRANE PLUG IN POINTS (2)
M13089	NO.9 CRANE FIX POWER SUPPLY POINT
M13090	NO.10 CRANE FIX POWER SUPPLY POINT
M13091	NO.11 CRANE FIX POWER SUPPLY POINT
M13092	NO'S 12 & 13 CRANES PLUG IN POINTS (4)
M11201	SUBMERSIBLE PUMP 415v FLYGT
M11202	SUBMERSIBLE PUMP 415v FLYGT
M11203	SUBMERSIBLE PUMP 415v FLYGT
M11204	SUBMERSIBLE PUMP H P AIR OPERATED
M11205	SUBMERSIBLE PUMP 240v 1Ph CENTRIFUGAL
M11206	SUBMERSIBLE PUMP 240v 1Ph CENTRIFUGAL
M11217	BALLASTING HOSES 95M
M11223	Kw Hr METERS
M11224	FRESH WATER METERS
M11230	FIRE MAIN PUMP NO 1 ELEC MOTOR & STARTER
M11231	FIRE MAIN PUMP NO 2 ELEC MOTOR & STARTER
M11232	FIRE MAIN PUMP NO 3 ELEC MOTOR & STARTER

M11243	SEWAGE TANK NO 1 (CAPACITY 3 TONS)
M11244	SEWAGE TANK NO 2 (CAPACITY 3 TONS)
M11245	CONTAMINATED OIL TANK NO 1 (CAPACITY 3 TONS)
M11246	CONTAMINATED OIL TANK NO 2 (CAPACITY 3 TONS)
M11252	VENTURI TYPE VENTILATORS 4 (TRUMPETS) (4)
M11253	VENTURI TYPE VENTILATORS 6 (TRUMPETS) (2)
M11254	VENTURI TYPE VENTILATORS 12 (TRUMPET) (1)
M11255	DOCK BOTTOM TRANSFORMERS 415/110v NO 1
M11256	DOCK BOTTOM TRANSFORMERS 415/110v NO 2
M11257	DOCK BOTTOM TRANSFORMERS 415/110v NO 3
M11258	DOCK BOTTOM TRANSFORMERS 415/110v NO 4
M11260	MULTI-OUTLET PORTABLE TRANSFORMER NO 1
M11261	MULTI-OUTLET PORTABLE TRANSFORMER NO 2
M11262	SHORE SUPPLY CABLES 120MM 2
M11263	TRANSFORMER 415/415 VOLTS WITH METER
M11264	TRANSFORMER 415/110 v 6 OUTLET (4)
M11265	TRANSFORMER 415/110 v 3 OUTLET (2)
M11266	FLYGT PUMP 4
M14006	LATHE (DEAN SMITH & GRACE) (1 OFF)
M14007	60 TON HYD PRESS (1 OFF)
M14008	1 TON GARAGE FLOOR CRANE (1 OFF)
M14014	SHOP FLOOR GANTING CRANE (1 OFF)
M15020	50/60Hz FREQUENCY CONVERTER (1 IN NO)
M15021	FREQUENCY CONVERTER STARTER PANEL (1)
M11911	MAIN PUMP HOUSE (3 PUMPS)
M11914	TOWER CLOCK
	COVER OVER NO 3 DOCK
	SUBSTATION
	HIGH PRESSURE SALT WATER PUMPING STATION
	CAISSONS
	NO.1 DOCK
	NO.2 DOCK
	NO.3 DOCK
	MAIN WHARF
	SOUTH MOLE
	DOCKSIDE CRANES
	NO.3 DOCK

**The Seventh Schedule**  
**Tenant's Fixtures and Fittings**

ESD CRANES		
ITEM NO	DESCRIPTION	LOCATION
M25601	VAUGHAN	ESD CENTRE BAY
M25602	MORRIS 30T	ESD STEEL
M25603	FELLOW STRINGER 10T	ESD STEEL
M25604	FEELOW STRINGER 5T	ESD PIPE
M25605	FELLOW STRINGER 7.5T	ESD ENGINE
M25607	KING HOIST 1T PELLOBY ARM	ESD BALACING

M25608	SWING ARM CRANES	ESD VARIOUS
M25609	SMALL OVERHEAD CRANE MORRIS	ESD STORE
M25610	MORRIS 20T	ESD BUILDING
M25611	MORRIS 1TON GANTRY	ESD T/CENTRE
M11303	GANGWAYS AND STOOLS	BETWEEN NO 1/NO 2
	REF NO    LENGTH	DOCKSIDE
	SG01        20M	
	SG02        16M	
	SG03        16M	
	SG04        12M	
	SG05        12M	
	SG06        10M	
	SG07        10M	
	SG10 (A)    5M	
	4 IN NO STOOLS	
M11305	KEEL BLOCKS CENTRE LINE BLOCKS 25	NO 3 DK POSITIONED
M11306	BILGE BLOCKS (6 IN NO)	NO 3 DK FWD END
M11312	DOCK WINCHES 4 IN NO	NO 1 DOCK
M11315	7 TON LOW PROFILE FORKLIFT 1 IN NO	DPS W/SHOP MECH
M11318	NO 1 DOCK CAISSON	NO 1 DOCK
M11319	NO 2 DOCK CAISSON & HAUL ENG	NO 2 DOCK
M11320	NO 3 DOCK CAISSON & HAUL ENG	NO 3 DOCK
M11321	SPARE CAISSON FOR 2 & 3 DOCKS	NO 3 DOCK
M11324	PENSTOCKS	
	3 IN NO FLOODING VALVES	INCLUDED MAIN
	5 IN NO DE-WATERING VALVES	ASSEST WITH
DPS YARD CRANES		
ITEM NO	DESCRIPTION	LOCATION
M11501	TOWER CRANE NO 1 (8 TONS)	MAIN WHARF
M11504	JIB CRANE NO 5 (10 TONS)	NO 3 DOCK EAST
M11505	JIB CRANE NO 6 (10 TONS)	NO 3 DOCK WEST
M11506	JIB CRANE NO 7 (15 TONS)	NO 2 DOCK EAST
M11507	JIB CRANE NO 8 (15 TONS)	NO 2 DOCK WEST
M11508	JIB CRANE NO 9 (45 TONS)	NO 1 DOCK EAST
M11509	TOWER CRANE NO 10 (8 TONS)	NO 1 DOCK WEST
M11510	JIB CRANE NO 11 (45 TONS)	NO1 DOCK WEST
M11511	TOWER CRANE NO 12 (8 TONS)	SOUTH MOLE
M11514	CRANE (10 TONS) HUSKY	
M11502	TOWER CRANE NO 2 (8 TONS)	MAIN WHARF
DPS ELECTRICAL SECTION ITEMS		
ITEM NO	DESCRIPTION	LOCATION
M13001	SOUTH MOLE SUB-STATION	SEE GEOGRAPHICAL LAYOUT OF SUB-STATION

M13002	DOCK PUMP HOUSE SUB-STATION	
M13003	NO 3 DOCK SUB-STATION	
M13004	NO 1 DOCK EAST SUB-STATION	
M13005	NO 1 DOCK WEST SUB-STATION	
M13006	MAIN WHARF SUB-STATION	
M13007	H.P. SALT WATER PUMP HSE SUB-STATION	
M13008	NO 1 DK WEST NORTH WINCH HSE SW. BD	
M13009	NO 1 DK EAST NORTH WINCH HSE SW. BD	
M13010	NO 1 DOCK WEST FEEDER PILLAR A3	
M13011	NO 2 DOCK WEST FEEDER PILLAR A4	
M13012	NO 3 DOCK WEST FEEDER PILLAR A5	
M13013	NO 3 DOCK EAST FEEDER PILLAR A6	
M13014	DOCKSIDE SERVICES SWITCHBOARD NO 1	SEE GEOGRAPHICAL LAYOUT OF DSS
M13015	DOCKSIDE SERVICES SWITCHBOARD NO 2	
M13016	DOCKSIDE SERVICES SWITCHBOARD NO 3	
M13017	DOCKSIDE SERVICES SWITCHBOARD NO 4	
M13018	DOCKSIDE SERVICES SWITCHBOARD NO 5	
M13019	DOCKSIDE SERVICES SWITCHBOARD NO 6	
M13020	DOCKSIDE SERVICES SWITCHBOARD NO 7	
M13021	DOCKSIDE SERVICES SWITCHBOARD NO 8	
M13022	DOCKSIDE SERVICES SWITCHBOARD NO 9	
M13023	DOCKSIDE SERVICES SWITCHBOARD NO 10	
M13024	DOCKSIDE SERVICES SWITCHBOARD NO 11	
M13025	DOCKSIDE SERVICES SWITCHBOARD NO 12	
M13026	DOCKSIDE SERVICES SWITCHBOARD NO 13	
M13027	DOCKSIDE SERVICES SWITCHBOARD NO 14	
M13028	DOCKSIDE SERVICES SWITCHBOARD NO 15	
M13029	DOCKSIDE SERVICES SWITCHBOARD NO 16	
M13030	DOCKSIDE SERVICES SWITCHBOARD NO 17	
M13031	DOCKSIDE SERVICES SWITCHBOARD NO 18	

M13032	DOCKSIDE SERVICES SWITCHBOARD NO 19	
M13033	DOCKSIDE SERVICES SWITCHBOARD NO 20	
M13034	DOCKSIDE SERVICES SWITCHBOARD NO 21	
M13035	DOCKSIDE SERVICES SWITCHBOARD NO 22	
M13036	DOCKSIDE SERVICES SWITCHBOARD NO 23	
M13037	DOCKSIDE SERVICES SWITCHBOARD NO 24	
M13038	WELDING PILLAR NO 1	
M13039	WELDING PILLAR NO 2	
M13040	WELDING PILLAR NO 3	
M13041	WELDING PILLAR NO 4	
M13042	WELDING PILLAR NO 5	
M13043	WELDING PILLAR NO 6	
M13044	WELDING PILLAR NO 7	
M13045	WELDING PILLAR NO 8	
M13046	WELDING PILLAR NO 9	
M13047	WELDING PILLAR NO 10	
M13048	WELDING PILLAR NO 11	
M13049	WELDING PILLAR NO 12	
M13050	WELDING PILLAR NO 13	
M13051	WELDING PILLAR NO 14	
M13052	WELDING PILLAR NO 15	
DPS SHIP SERVICES ITEMS		
ITEM NO	DESCRIPTION	LOCATION
M11219	SHORE SUPPLY TRANSFORMER 415/380v	
M11220	SHORE SUPPLY TRANSFORMER 415/380v	
M11221	AC/DC RECTIFIER UNIT	
M11222	AC/DC RECTIFIER UNIT	
M11247	CONTAMINATED OIL TANK NO 3	
M11248	CONTAMINATED OIL TANK NO 4	
M11249	CONTAMINATED OIL TANK NO 5	
M11250	CONTAMINATED OIL TANK NO 6	
M11251	OIL TANKS 7 & 8	

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I assent and have caused the said  
Public Seal to be hereunto affixed:-

Witness  
Name

Governor

Executed as a deed by  
the **TENANT** acting by a Director  
in the presence of:

Witness  
Name

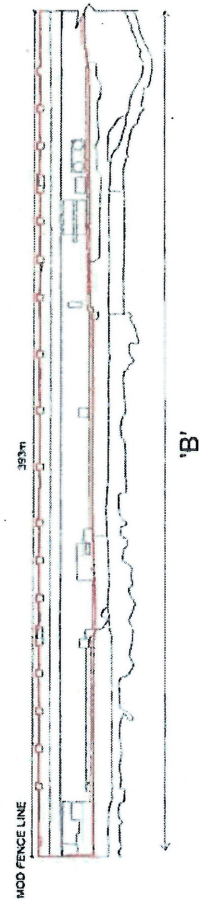
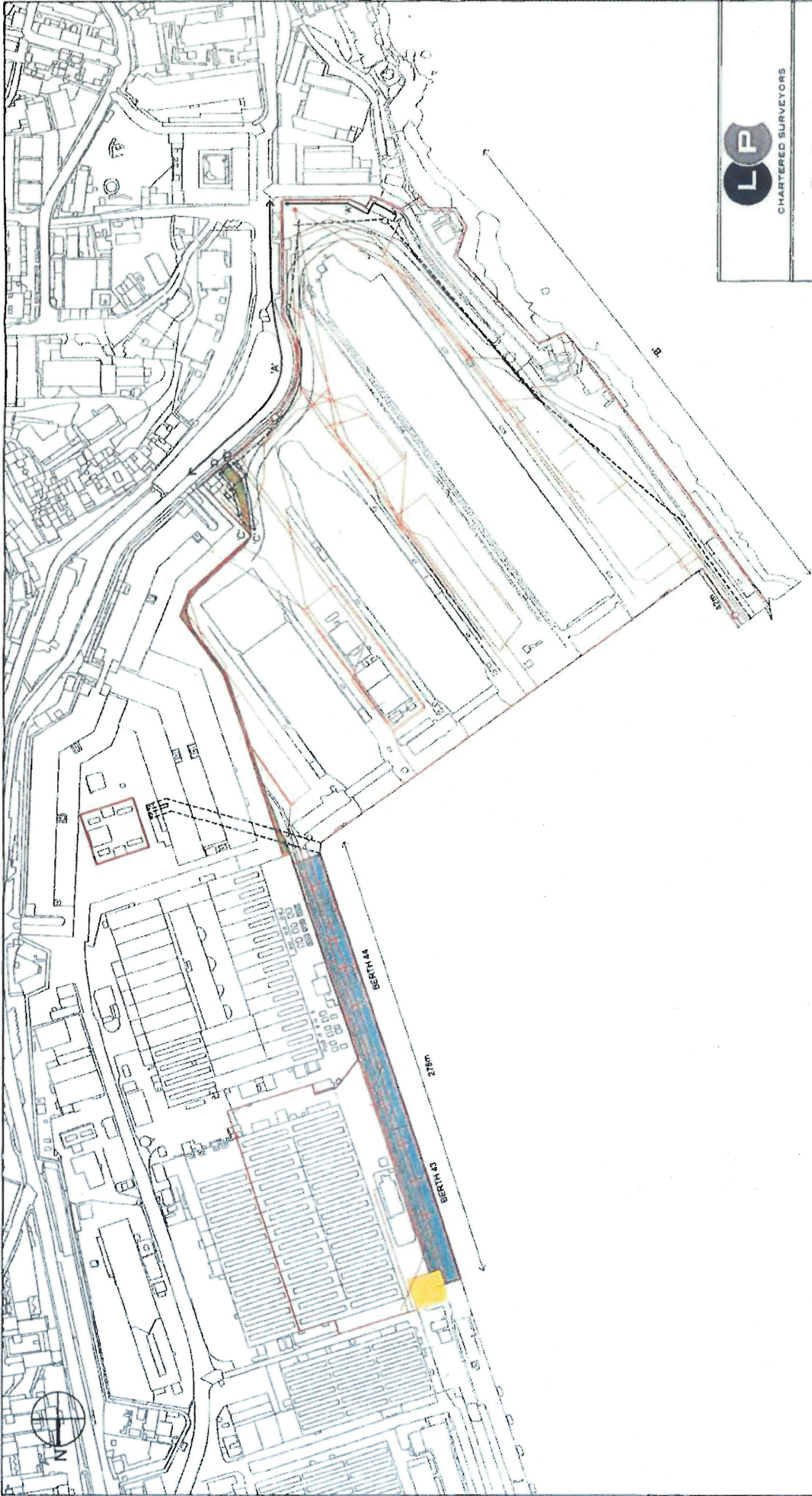
Director  
Name

Executed as a deed by  
the **GUARANTOR** acting by a Director  
in the presence of:

Witness  
Name

Director  
Name





CHARTERED SURVEYORS

Dockyard  
CP1540

Lease Plan

FOR IDENTIFICATION PURPOSES ONLY

Drawn: JM	DRG. No.
Checked: AB	
Scale: N.T.S	
Date: April 2022	

