

[For use in Transactions involving U.S.-flag vessels]

COMMITMENT TO GUARANTEE OBLIGATION

by

THE UNITED STATES OF AMERICA

Accepted by

Shipowner

(Under Title XI, Merchant Marine Act, 1936,
as amended, and in effect on the
date of this Guarantee Commitment)

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THE UNITED STATES OF AMERICA

Accepted by

Shipowner

THIS COMMITMENT TO GUARANTEE Obligation, dated _____ (the "Guarantee Commitment"), made and entered into by the UNITED STATES OF AMERICA (the "United States"), represented by the SECRETARY OF TRANSPORTATION, acting by and through the MARITIME ADMINISTRATOR (the "Secretary"), and accepted on said date by _____, a _____ (the "Shipowner").

RECITALS:

A. The Shipowner is the sole owner of _____ and _____, Vessels built pursuant to the Construction Contract with the Shipyard, _____.

B. To aid in financing the Construction of the Vessels, the Shipowner will borrow an aggregate principal amount equal to, ___% of the Depreciated Actual Cost or Actual Cost of the Vessels, as the case may be, as of the Closing Date. To accomplish such financing, the Shipowner has accepted this Guarantee Commitment subject to the terms and conditions set forth herein.

C. On the Closing Date, the Shipowner shall execute and deliver the Loan Agreement, between it and _____, as Lender, in connection with the issuance of the Obligation relating to the Vessels in the principal amount of \$ _____.

D. As security for the Guarantee, the Shipowner will execute and deliver the Security Agreement, Contract MA-___, the Secretary's Note, the Mortgage, Contract MA-___, the Financial Agreement, Contract MA-___, and the Depository Agreement, Contract MA-___.

WITNESSETH:

That under the provisions of Title XI of the Merchant Marine Act, 1936, as amended and in consideration of (i) the covenants of the Shipowner contained herein and (ii) other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Secretary hereby commits itself as herein provided.

ARTICLE I
Findings and Determinations of Secretary

Pursuant to Section 1104A(b)(1) of Title XI, the Secretary has approved the Shipowner as responsible and possessing the ability, experience, financial resources and other qualifications necessary to the adequate operation and maintenance of the Vessels.

Pursuant to Section 1104A(b)(2) of Title XI, the Secretary has determined that the aggregate of the Depreciated Actual Cost or Actual Cost of the Vessels, as the case may, be is _____. Prior to the Closing Date, the Secretary, in its discretion, may redetermine the Depreciated Actual Cost or Actual Cost of one or more of the Vessels. On the Closing Date, the aggregate principal amount of the Obligation will not exceed ___% of the Depreciated Actual Cost or the Actual Cost, as the case may be.

Pursuant to Sections 1104A(b)(3), 1104A(b)(4) and 1104A(b)(5) of Title XI, the Secretary has determined that: (1) the maturity date of the Obligation is satisfactory, (2) payments of principal required by the Obligation are satisfactory and (3) the interest rate to be borne by the Obligation to be issued on the Closing Date is reasonable.

Pursuant to Section 1104A(d) of Title XI, the Secretary has found that the Shipowner's proposed use of the Vessels will be economically sound.

ARTICLE II
Commitment to Guarantee Obligation

The United States, represented by the Secretary, HEREBY COMMITS ITSELF TO GUARANTEE the payment of the unpaid interest on, and the unpaid balance of the principal of, the Obligation, including interest accruing between the date of default under the Obligation and the payment in full of the Guarantee, and, to effect this Guarantee Commitment, hereby commits itself to execute and deliver the Security Agreement, Financial Agreement, Depository Agreement and the Mortgage on the Closing Date pursuant to the terms of the Guarantee Commitment.

ARTICLE III
The Obligation

The Obligation shall be as provided in the Loan Agreement and in the form of the Obligation annexed as Exhibit 1 to the Loan Agreement. The Obligation shall be subject to all of the terms and conditions set forth in the Loan Agreement.

ARTICLE IV
Conditions to Execution and Delivery of the Guarantee

The obligation of the Secretary to execute and deliver the Guarantee on the Closing Date shall be subject to the following conditions unless waived in writing by the Secretary:

- (a) the Closing Date shall occur on or prior to _____;
- (b) the Shipowner and the Shipyard shall have executed and delivered to the Secretary a copy of the Construction Contract and the Shipyard shall have executed the Consent of Shipyard.
- (c) the Shipowner shall have executed and delivered the following documents in the form attached hereto: the Security Agreement, Mortgage, Financial Agreement, Loan Agreement, Secretary's Note, Depository Agreement and Obligation;
- (d) the Lender shall have executed, in the form attached hereto, the Loan Agreement and the Depository shall have executed the Depository Agreement;
- (e) the following documents shall have been delivered to the Secretary: (i) two executed counterparts of the Loan Agreement, (ii) two specimen copies of the Obligation; (iii) two executed originals of the legal opinion issued under section (k) of this Article; (iii) two originals of all other documents delivered by the Shipowner, Lender or the Depository in connection with this Closing.
- (f) if the Shipowner intends to operate any of the Vessels in the U.S. domestic trade, the Shipowner and any bareboat charterers of such Vessels shall have furnished to the Secretary on the Closing Date an affidavit complying with the requirements of 46 CFR 355, demonstrating U.S. citizenship;
- (g) the Shipowner shall have executed an Officer's Certificate representing and warranting the truth of the following statements as of the Closing Date:
- (i) each of the representations and warranties set out at Section 2.01 of the General Provisions of the Security Agreement in Appendix III; and
- (ii) the Shipowner is not in violation of any Federal laws having a substantial adverse effect on the interests of the United States of America and that the consummation of the Commitment complies with non-Title XI Federal law.
- (h) the Secretary shall have received the Guarantee Fee payable under Section 1104A (e) of Title XI and the Investigation Fee, due under Section 1104A (f) of Title XI.
- (i) the Shipowner shall have complied in all material respects with its agreements under this Guarantee Commitment;
- (j) there shall not have occurred any event which constitutes (or after any period of time or any notice, or both, would constitute) a "Default" under the Security Agreement;
- (k) there shall have been delivered to the Secretary by the Shipowner an opinion of counsel acceptable to the Secretary, in the form annexed hereto as Schedule 1 which shall include, among other things, an opinion to the effect that: (i) by the terms of the Security Agreement, the Shipowner has granted to the Secretary a fully perfected, first priority security interest in each of the

assets which constitutes the Security; and (ii) all filings, recordings, notices and other actions required to perfect the Secretary's interests in the Security and to render such security interests valid and enforceable under applicable State law have been duly effected;

(l) the Secretary shall have received a letter agreement from the Shipowner to provide the Secretary within a reasonable time after the Closing Date, with eight conformed copies of the Guarantee Commitment and each of the Appendices and Exhibits thereto executed on or prior to such date;

(m) on the Closing Date, the qualifying requirements set forth in Section 11 of the Financial Agreement shall have been complied with and certified to as required therein;

(n) at least ten days prior to the Closing Date, there shall have been delivered to the Secretary, pro forma balance sheets for the Shipowner as of the Closing Date, certified by an officer of the Shipowner showing, among other things, all non-Title XI debt of the Shipowner;

(o) on the Closing Date, the Shipowner shall certify that all non-Title XI loans to the Shipowner relating to the Vessels have been discharged or subordinated satisfactorily to the Secretary, and

(p) at least ten days prior to the Closing Date, the Shipowner shall have provided the Secretary with satisfactory evidence of marine insurance as required by the Security Agreement.

ARTICLE V

Variation of Guarantee Commitment

No variation from the terms and conditions hereof shall be permitted except pursuant to an amendment executed by the Secretary and the Shipowner.

ARTICLE VI

Termination or Assignment of Guarantee Commitment

This Guarantee Commitment may be terminated and the parties hereto shall have no further rights or obligations hereunder, upon written notice by the Secretary of the termination of the obligations of the United States pursuant to the Shipowner's failure to satisfy one or more conditions set forth in Article V hereof or upon the Secretary's determination, at or before the Closing Date, that (i) the Shipowner is in violation of Federal law and such violation would have a substantial, adverse affect on the interests of the United States of America or (ii) the consummation of the Commitment would violate non-Title XI Federal law. The Shipowner's warranties and representations shall survive the termination of this Agreement and the Secretary's issuance of the Guarantees. This Guarantee Commitment may not be assigned by the Shipowner without the prior written approval of the Secretary and any attempt to do so shall be null and void ab initio.

ARTICLE VII
Miscellaneous

(a) The table of contents and the titles of the Articles are inserted as a matter of convenient reference and shall not be construed as a part of this Guarantee Commitment. This Guarantee Commitment may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

(b) For all purposes of this Guarantee Commitment, unless otherwise expressly provided or unless the context shall otherwise require, capitalized terms used herein shall have the meaning given in Schedule X to the Security Agreement.

IN WITNESS WHEREOF, this Commitment to Guarantee Obligation has been executed by the United States and accepted by the Shipowner, all as of the day and year first above written.

UNITED STATES OF AMERICA,
SECRETARY OF TRANSPORTATION

BY: MARITIME ADMINISTRATION

(SEAL)

BY: _____
Secretary
Maritime Administration

Attest:

Assistant Secretary
Maritime Administration

ACCEPTED BY:

as Shipowner

(SEAL)

BY: _____

Attest:

BY: _____