

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C.  
20549

FORM 8-A

FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES PURSUANT TO  
SECTION 12(b) OR (g) OF THE  
SECURITIES EXCHANGE ACT OF 1934

**GulfMark Offshore, Inc.**  
(Exact Name of Registrant as Specified in Its Charter)

<b>Delaware</b> (State or Other Jurisdiction of Incorporation or Organization)	<b>76-0526032</b> (I.R.S. Employer Identification No.)
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<b>842 West Sam Houston Parkway North, Suite 400</b> <b>Houston, Texas</b> (Address of Principal Executive Offices)	<b>77024</b> (Zip Code)
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Title of Each Class to be Registered	Name of Each Exchange on Which Each Class is to be Registered
<b>Common Stock, \$0.01 par value per share</b>	<b>NYSE American</b>

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c) or (e), check the following box. ☒

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d) or (e), check the following box. ☐

If this form relates to the registration of a class of securities concurrently with a Regulation A offering, check the following box. ☐

Securities Act registration statement or Regulation A offering statement file number to which this form relates: N/A

Securities to be registered pursuant to Section 12(g) of the Act: N/A

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## **Item 1. Description of Registrant's Securities to be Registered.**

### **General**

As previously reported, on May 17, 2017, GulfMark Offshore, Inc., a Delaware corporation ("GulfMark" or the "Company"), filed a voluntary petition for relief (the "Bankruptcy Case") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") to pursue a Chapter 11 Plan of the Debtor (as proposed and amended, the "Plan") and related disclosure statement (as amended, the "Disclosure Statement"). On October 4, 2017, the Bankruptcy Court entered an order (the "Confirmation Order") confirming the Plan. A copy of the Confirmation Order, with a copy of the Plan as confirmed attached thereto, is attached as Exhibit 2.1 to the Current Report on Form 8-K filed October 5, 2017 and is incorporated herein by reference. On the date hereof (the "Effective Date"), the Company satisfied the conditions of the Confirmation Order, and the Plan became effective.

Pursuant to the Plan, on the Effective Date, the Company will issue 7,043,141 shares of Common Stock, par value \$0.01 per share (the "Common Stock"). In addition, the Company has reserved an additional (i) 2,956,859 shares of Common Stock for the potential conversion of warrants to purchase Common Stock with an exercise price of \$0.01; (ii) 876,553 shares of Common Stock for issuance under the Company's Management Incentive Plan and (iii) approximately 810,811 shares of Common Stock for the potential conversion of warrants to purchase Common Stock with an exercise price of \$100.00 pursuant to the Plan. This registration statement registers the Common Stock under Section 12(b) of the Securities Exchange Act of 1934, as amended. All previously issued and outstanding shares of Common Stock and other previously issued and outstanding existing equity interests in the Company have been cancelled as of the Effective Date.

Also on the Effective Date, the Company filed its Amended and Restated Certificate of Incorporation (the "Certificate of Incorporation") with the Secretary of State of the State of Delaware and adopted its Amended and Restated Bylaws (the "Bylaws"). The following description of the Common Stock does not purport to be complete and is subject to and qualified by the full terms of the Certificate of Incorporation and the Bylaws, copies of which are attached to this registration statement as Exhibit 3.1 and Exhibit 3.2, respectively, and are incorporated herein by reference. Additionally, the General Corporation Law of the State of Delaware (the "DGCL") may contain provisions which affect the capital stock of the Company.

### **Authorized Capitalization**

The total number of shares of capital stock that the Company has authority to issue is 30,000,000 shares, consisting of (i) 25,000,000 shares of Common Stock, and (ii) 5,000,000 shares of Preferred Stock, par value \$0.01 per share ("Preferred Stock"). The shares of the Company's common stock are subject to the Maritime Restrictions as described under "—Maritime Restrictions" below.

Subject to the limitations in the Certificate of Incorporation or applicable law, the shares of the Common Stock have all rights ordinarily associated with shares of common stock under Delaware law, including, but not limited to, general voting rights and general rights to dividends and distributions.

### **Voting and Dividend Rights**

Each holder of record of Common Stock is entitled to one (1) vote for each share of Common Stock that is registered in such holder's name on the books of the Company. The holders of record of Common Stock vote together as a single class on all matters on which holders of the Common Stock are entitled to vote except as otherwise required by applicable law. Holders of shares of Common Stock are entitled to receive equally, on a per share basis, such dividends or distributions as are lawfully declared on the Common Stock. Except as otherwise required by law, holders of Common Stock are not entitled to vote on any amendment to the Certificate of Incorporation (including any Preferred Stock Designation (as defined in the Certificate of Incorporation)) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to the Certificate of Incorporation (including any Preferred Stock Designation) or pursuant to the DGCL, provided that such amendment does not alter or change the designations, powers, preferences or rights of the shares of Common Stock so as to affect them adversely. Notwithstanding the foregoing, the rights of Non-U.S. Citizen owners of shares of the Company's Common Stock to receive dividends or other distributions (upon liquidation or otherwise) are subject to the Maritime Restrictions as described under "—Maritime Restrictions" below.

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## **Number of Directors**

The total number of directors constituting the entire Board of Directors may not be not less than one (1) nor more than fifteen (15). Initially, the Board of Directors is comprised of seven (7) directors. Each director holds office until the next annual meeting of stockholders and until his or her successor is elected and qualified or until his or her earlier death, resignation, removal or incapacity. The number of directors may be changed from time to time by resolution of a majority of the Board of Directors. Directors need not be stockholders. In order to comply with U.S. Maritime Laws, no more than a minority of the number of directors necessary for a quorum of the Board of Directors may be Non-U.S. Citizens. See the Maritime Restrictions as described under “—Maritime Restrictions” below.

## **Vacancies and Newly Created Directorships**

Subject to the rights, if any, of the holders of shares of any class or series of Preferred Stock of then outstanding to designate a director to fill a vacancy as set forth in the instrument of designation of such Preferred Stock applicable thereto, any vacancy on the Board of Directors resulting from any death, resignation, retirement, disqualification, removal from office, or newly created directorship resulting from any increase in the authorized number of directors or otherwise will be filled by (a) the Board of Directors, acting by a majority of the remaining directors then in office, even if less than a quorum, or by a sole remaining director, or (b) stockholders of the Company, with an affirmative vote of the holders of a majority of the total voting power of all the shares of the Company entitled to vote generally in the election of directors, voting together as a single class. A director elected to fill a vacancy will hold office for a term expiring at the annual meeting of stockholders and until such director’s successor has been duly elected and qualified or until such director’s earlier death, resignation or removal.

## **Special Meetings of the Stockholders**

Special meetings of stockholders of the Company may be called at any time and from time to time only upon the written request (stating the purpose or purposes of the meeting) of (a) the Board of Directors, (b) the Chairman of the Board of Directors, or (c) the holders of ten percent or more of the total voting power of all the shares of the Company entitled to vote generally in the election of directors. Except as otherwise required by law or provided in the instrument of designation of any series of Preferred Stock of the Company, special meetings of the stockholders of the Company may not be called by any person, group or entity other than those specifically enumerated in this paragraph.

## **Stockholder Action by Written Consent**

Any action required or permitted to be taken at any annual or special meetings of the stockholders of the Company may be taken without a meeting, without prior notice and without a vote, by a consent or consents in writing, setting forth the action so taken, (a) signed by stockholders of the Company holding not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all the shares of the Company entitled to vote thereon were present and voted and (b) delivered to the Company in accordance with Section 228 of the DGCL.

## **Liquidation, Dissolution or Winding Up**

Holders of shares of Common Stock, upon liquidation, dissolution or winding up of the affairs of the Company, are entitled to share equally, on a per share basis, in the assets thereof that may be available for distribution after satisfaction of creditors and of the preferences of shares of Preferred Stock. Notwithstanding the foregoing, the rights of Non-U.S. Citizen owners of shares of the Common Stock to receive distributions (upon liquidation or otherwise) are subject to the Maritime Restrictions as described under “—Maritime Restrictions” below.

## **Redemption**

Shares of the Common Stock are not redeemable (except for any shares of Common Stock that are Excess Shares (as defined below)) and have no subscription or preemptive rights. For a description of the Company’s right to redeem Excess Shares, see “—Maritime Restrictions—Redemption of Excess Shares” below.

## **Transfer Agent and Registrar**

The Transfer Agent and Registrar for shares of the Common Stock is American Stock Transfer & Trust Company.

## **Limitation of Directors’ Liability and Indemnification**

The Certificate of Incorporation contains provisions eliminating the personal liability of the Company’s directors and officers to the Company and the Company’s stockholders for monetary damages for breaches of their fiduciary duties as directors to the fullest extent permitted by the DGCL, as it may be amended. These provisions only apply to breaches of duty by directors as directors and not in any other corporate capacity, such as officers. In addition, these provisions limit liability only for breaches of fiduciary duties under the DGCL and not for violations of other laws such as the U.S. Federal securities laws and U.S. Federal and state environmental laws. As a result of these provisions in the Certificate of Incorporation, the Company’s stockholders may be unable to recover monetary damages against directors for actions taken by them that constitute negligence or gross negligence or that are in violation of their fiduciary duties. However, the Company’s stockholders may obtain injunctive or other equitable relief for these actions. These provisions also reduce the likelihood of derivative litigation against directors that might benefit us.

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In addition, the Certificate of Incorporation and Bylaws provide that the Company will indemnify and advance expenses to, and hold harmless, each of the Company's directors and officers (each, an "Indemnitee"), to the fullest extent permitted by applicable law, who was or is made or is threatened to be made a party or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (each a "proceeding"), by reason of the fact that he, or a person for whom he is the legal representative, is or was a director or officer of the Company or, while a director or officer of the Company, is or was serving at the Company's request as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, enterprise or nonprofit entity, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee, fiduciary or agent or in any other capacity while serving as a director, officer, employee, fiduciary or agent, against all liability and loss suffered and expenses (including attorneys' fees) reasonably incurred by such Indemnitee. Notwithstanding the preceding sentence, except as otherwise provided in the Certificate of Incorporation and Bylaws, the Company will be required to indemnify, or advance expenses to, an Indemnitee in connection with a proceeding (or part thereof) commenced by such Indemnitee only if the commencement of such proceeding (or part thereof) by the Indemnitee was authorized by the Board of Directors.

Pursuant to the Plan, indemnification agreements with each of the Company's current and former officers, directors, agents, and/or employees (each, a "Contractual Indemnitee") with respect to all present and future actions, suits, and proceedings against the Company or such directors, officers, agents, and/or employees, based upon any act or omission for or on behalf of the Debtor, shall not be discharged or impaired by the Plan or the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code ("Confirmation Order"); provided, however, that the Company shall not indemnify directors or officers of the Company for any claims or causes of action arising out of, or relating to, any act or omission resulting from gross negligence, willful misconduct, breach of fiduciary duty, intentional tort, a criminal act, or intentional fraud. Pursuant to the indemnification agreements, we will be obligated to indemnify the applicable Contractual Indemnitee to the fullest extent permitted by applicable law in the event that such Contractual Indemnitee, by reason of such Contractual Indemnitee's relationship with us, was, is or is threatened to be made a party to or participant in any threatened, pending or completed action or proceeding, other than an action or proceeding by or in our right against all expenses, judgments, penalties, fines (including any excise taxes assessed on the Contractual Indemnitee with respect to an employee benefit plan) and amounts paid in settlement actually and reasonably incurred by such Contractual Indemnitee in connection with such action or proceeding, provided that such Contractual Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to our best interests, and, with respect to any criminal action or proceeding, provided that he or she also had no reasonable cause to believe his or her conduct was unlawful. We will also be obligated to indemnify such Contractual Indemnitee to the fullest extent permitted by applicable law in the event that such Contractual Indemnitee, by reason of such Contractual Indemnitee's relationship with us, was, is or is threatened to be made a party to or participant in any threatened, pending or completed action or proceeding brought by or in our right to procure a judgment in our favor, against all expenses actually and reasonably incurred by such Contractual Indemnitee in connection with such action or proceeding, provided that such Contractual Indemnitee acted in good faith and in a manner he or she reasonably believed to be in or not opposed to our best interests. Notwithstanding the foregoing sentence, no indemnification against expenses incurred by such Contractual Indemnitee in connection with such an action or proceeding brought by or in our right will be made in respect of any claim, issue or matter as to which such Contractual Indemnitee is adjudged to be liable to us or if applicable law prohibits such indemnification being made; provided, however, that, in such event, if applicable law so permits, indemnification against such expenses will nevertheless be made by us if and to the extent that the court in which such action or proceeding has been brought or is pending determines that, despite the adjudication of liability but in view of all the circumstances of the case, the Contractual Indemnitee is fairly and reasonably entitled to indemnity for such expenses.

The indemnification agreements also provide for the advancement of all reasonable expenses incurred by such Contractual Indemnitee in connection with any action or proceeding covered by the indemnification agreement. The Contractual Indemnitee will be required to repay any amounts so advanced if, and to the extent that, it is ultimately determined that he or she is not entitled to be indemnified by us against such expenses. The Contractual Indemnitee will further be required to return any such advance to us which remains unspent at the conclusion of the action or proceeding to which the advance related.

#### **Delaware Section 203**

The Company expressly elects not to be governed by Section 203 of the DGCL.

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## **Anti-takeover Effects**

The Maritime Restrictions may have anti-takeover effects because they will restrict the ability of Non-U.S. Citizens to own, in the aggregate, more than 24% of the outstanding shares of the Common Stock. The Board of Directors considers the Maritime Restrictions to be reasonable and in the Company's best interests and the best interests of the Company's stockholders because the Maritime Restrictions reduce the risk that the Company will not be a U.S. Citizen (as defined below) for purposes of operating U.S.-flag vessels in the U.S. coastwise trade. In the opinion of the Board of Directors, the fundamental importance to the Company's stockholders of maintaining eligibility under these U.S. Maritime Laws is a more significant consideration than the indirect "anti-takeover" effect the Maritime Restrictions may have.

The availability for issuance of additional shares of the Company's common stock could have the effect of rendering more difficult or discouraging an attempt to obtain control of the Company. For example, the issuance of shares of the Company's common stock (within the limits imposed by applicable law and the rules of any exchange upon which the common stock may then be listed) in a public or private sale, merger or similar transaction would increase the number of outstanding shares, thereby possibly diluting the interest of a party attempting to obtain control of the Company. The issuance of additional shares of the Company's common stock could also be used to render more difficult a merger or similar transaction even if it appears to be desirable to a majority of the Company's stockholders.

## **Maritime Restrictions**

The Company and certain of its subsidiaries are subject to U.S. maritime laws (the "U.S. Maritime Laws") that generally require that only U.S. citizens own and operate U.S.-flag vessels in the U.S. coastwise trade (i.e., trade between points in the United States). We refer to any natural person or entity that satisfies the citizenship requirements of the U.S. Maritime Laws as a "U.S. Citizen," and any natural person or entity that does not satisfy those requirements as a "Non-U.S. Citizen." In general, a corporation must satisfy the following requirements in order to be a U.S. Citizen: (i) the corporation must be organized under the laws of the United States or of a state, territory or possession thereof; (ii) each of the chief executive officer and the chairman of the board of directors of the corporation must be a U.S. Citizen; (iii) no more than a minority of the number of directors of the corporation necessary to constitute a quorum for the transaction of business may be Non-U.S. Citizens; and (iv) at least 75% of each class or series of stock in the corporation must be owned by U.S. Citizens. Should the Company fail to satisfy the requirements of the U.S. Maritime Laws to be a U.S. Citizen, it would be prohibited from operating its vessels in the U.S. coastwise trade during the period of such non-compliance. In addition, the Company could be subject to fines and its vessels could be subject to seizure and forfeiture for violations of the U.S. Maritime Laws.

The following is a summary of the restrictions (the "Maritime Restrictions") in the Certificate of Incorporation. This summary is qualified in its entirety by reference to the full text of the Certificate of Incorporation.

### *General Restriction on Ownership of Shares by Non-U.S. Citizens*

In order for the Company to protect its status as a U.S. Citizen, the Certificate of Incorporation restricts the record or beneficial ownership or control of shares of each class or series of the Company's capital stock, which includes the Common Stock, by Non-U.S. Citizens to no more than 24% in the aggregate of the total issued and outstanding shares of such class or series. We refer to such percentage restriction on ownership by Non-U.S. Citizens of any class or series of shares of the Company's capital stock as the "Permitted Percentage" and any such shares owned by Non-U.S. Citizens in excess of the Permitted Percentage as "Excess Shares." The Certificate of Incorporation provides that a person will not be deemed to be the record or beneficial owner or have control of shares of the Company's capital stock, if the Company determines that such person is not the owner of such shares for the purposes of the U.S. Maritime Laws. All references to beneficial ownership of shares and the derivative phrases thereof in this summary of the Maritime Restrictions include record ownership of shares and the ability to control shares.

### *Restriction on Transfers of Excess Shares*

The Certificate of Incorporation provides that no shares of any class or series of the capital stock of the Company may be transferred to a Non-U.S. Citizen or a holder of record that will hold such shares for or on behalf of a Non-U.S. Citizen if, upon completion of such transfer, the number of shares of such class or series beneficially owned by all Non-U.S. Citizens in the aggregate would exceed the Permitted Percentage for such class or series. Any transfer or purported transfer of beneficial ownership of any shares of any class or series of capital stock of the Company, the effect of which would be to cause one or more Non-U.S. Citizens in the aggregate to beneficially own shares of any class or series of capital stock of the Company in excess of the Permitted Percentage for such class or series, shall, to the fullest extent permitted by law, be void ab initio and ineffective, and, to the extent that the Company or its transfer agent (if any) knows that such transfer or purported transfer would, if completed, be in violation of the restrictions on transfers to Non-U.S. Citizens set forth in Article VI of the Certificate of Incorporation, neither the Company nor its transfer agent (if any) shall register such transfer or purported transfer on the stock transfer records of the Company and neither the Company nor its transfer agent (if any) shall recognize the transferee or purported transferee thereof as a stockholder of the Company for any purpose whatsoever (including for purposes of voting, dividends and other distributions) except to the extent necessary to effect any remedy available to the Company under Article VI of the Certificate of Incorporation. In no event shall any such registration or recognition make such transfer or purported transfer effective unless the Board of Directors (or any duly authorized committee thereof, or any officer of the Company who shall have been duly authorized by the Board of Directors or any such committee thereof) shall have expressly and specifically authorized the same.

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In connection with any purported transfer of shares of any class or series of the capital stock of the Company, any transferee or proposed transferee of shares and, if such transferee or proposed transferee is acting as a fiduciary or nominee for a beneficial owner, such beneficial owner, may be required by the Company or its transfer agent to deliver (i) certification (which may include as part thereof a form of affidavit) upon which the Company and its transfer agent shall be entitled to rely conclusively stating whether such transferee or proposed transferee or, if such transferee or proposed transferee is acting as custodian, nominee, purchaser representative or in any other capacity for a beneficial owner, whether such beneficial owner, is a U.S. Citizen, and (ii) such other documentation and information concerning its citizenship under Section 6.8 of Article VI of the Certificate of Incorporation as the Company may request in its sole discretion. Registration and recognition of any transfer of shares may be denied by the Company upon refusal to furnish any of the foregoing citizenship certifications, documentation or information requested by the Company. Each proposed transferor of such shares shall reasonably cooperate with any requests from the Company to facilitate the transmission of requests for such citizenship certifications and such other documentation and information to the proposed transferee and such proposed transferee's responses thereto.

Notwithstanding any of the provisions of Article VI of the Certificate of Incorporation, the Company shall be entitled to rely, without limitation, on the stock transfer and other stockholder records of the Company (and its transfer agent) for the purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies, and otherwise conducting votes of stockholders.

#### *Excess Shares*

If on any date, including, without limitation, any record date (each, an "Excess Share Date"), the number of shares of any class or series of capital stock of the Company beneficially owned by all Non-U.S. Citizens in the aggregate should exceed the Permitted Percentage with respect to such class or series of capital stock, irrespective of the date on which such event becomes known to the Company (such shares in excess of the Permitted Percentage, the "Excess Shares"), then the shares of such class or series of capital stock of the Company that constitute Excess Shares for purposes of Article VI of the Certificate of Incorporation shall be (x) those shares that have been acquired by or become beneficially owned by Non-U.S. Citizens, starting with the most recent acquisition of beneficial ownership of such shares by a Non-U.S. Citizen and including, in reverse chronological order of acquisition, all other acquisitions of beneficial ownership of such shares by Non-U.S. Citizens from and after the acquisition of beneficial ownership of such shares by a Non-U.S. Citizen that first caused such Permitted Percentage to be exceeded, or (y) those shares beneficially owned by Non-U.S. Citizens that exceed the Permitted Percentage as the result of any repurchase or redemption by the Company of shares of its capital stock, starting with the most recent acquisition of beneficial ownership of such shares by a Non-U.S. Citizen and going in reverse chronological order of acquisition; provided, however, that: (a) the Company shall have the power to determine, in its sole discretion, those shares of such class or series that constitute Excess Shares in accordance with the provisions of Article VI of the Certificate of Incorporation; (b) the Company may, in its sole discretion, rely on any documentation provided by Non-U.S. Citizens with respect to the date and time of their acquisition of beneficial ownership of Excess Shares; (c) if the acquisition of beneficial ownership of more than one Excess Share occurs on the same date and the time of acquisition is not definitively established, then the order in which such acquisitions shall be deemed to have occurred on such date shall be determined by lot or by such other method as the Company may, in its sole discretion, deem appropriate; (d) Excess Shares that result from a determination that a beneficial owner has ceased to be a U.S. Citizen shall be deemed to have been acquired, for purposes of Article VI of the Certificate of Incorporation, as of the date that such beneficial owner ceased to be a U.S. Citizen; and (e) the Company may adjust upward to the nearest whole share the number of shares of such class or series deemed to be Excess Shares. Any determination made by the Company pursuant to Section 6.5 of the Certificate of Incorporation as to which shares of any class or series of the Company's capital stock constitute Excess Shares of such class or series shall be conclusive and shall be deemed effective as of the applicable Excess Share Date for such class or series.

#### *Redemption of Excess Shares*

To the extent that the above ownership and transfer restrictions would be ineffective for any reason, the Certificate of Incorporation provides that, to prevent the percentage of aggregate shares of any class or series of the Company's capital stock owned by Non-U.S. Citizens from exceeding the Permitted Percentage, the Company, by action of the Board of Directors (or any duly authorized committee thereof), in its sole discretion, will have the power (but not the obligation) to redeem all or any number of such Excess Shares, unless such redemption is not permitted under applicable law.

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Until such Excess Shares are redeemed or they are no longer Excess Shares, the holders of such shares will not be entitled to any voting rights with respect to such shares and the Company will pay any dividends or distributions with respect to such shares into a segregated account. Full voting, distribution and dividend rights will be restored to such Excess Shares (and any dividends or distributions paid into a segregated account will be paid to holders of record of such shares), promptly after the time and to the extent that such shares have ceased to be Excess Shares, unless such shares have already been redeemed by the Company.

If the Board of Directors (or any duly authorized committee thereof) determines to redeem Excess Shares, the per share redemption price (the "Redemption Price") for each Excess Share shall be paid by the issuance of one Redemption Warrant (defined below) for each Excess Share; provided, however, that if (x) the Company has received written advice of counsel that a Redemption Warrant would be treated as capital stock under the U.S. Maritime Laws due to a change in the U.S. Maritime Laws, a written change in the policies of the U.S. Coast Guard or a written notice from the U.S. Coast Guard to the Company or (y) the Company is prevented from legally issuing Redemption Warrants under applicable law, then the Redemption Price shall be paid, as determined by the Board of Directors (or any duly authorized committee thereof) in its sole discretion, (A) in cash (by wire transfer or bank or cashier's check), or (B) by the issuance of Redemption Notes (defined below) or (C) by any combination of cash and Redemption Notes; provided further, however, if any outstanding Redemption Warrants or any outstanding New Noteholder Warrants (defined below) must be restructured as a result of an event described in clause (x) above in order for the Company to comply with the U.S. Maritime Laws, then the Redemption Price shall be paid in the same consideration approved by the Board of Directors (or any duly authorized committee thereof) in its sole discretion to be paid by the Company to the holders of any outstanding Redemption Warrants and any outstanding New Noteholder Warrants in connection with such restructuring.

- "Redemption Warrants" means warrants to purchase one share of any specified class or series of the capital stock of the Company at an exercise price of \$0.01 per share governed by the terms of a warrant agreement to be entered into by the Company and a warrant agent, the form of which is attached hereto as Exhibit 4.2 and is incorporated herein by reference. Prior to the issuance of the specified class or series of the capital stock of the Company issuable upon exercise of any Redemption Warrants, the Redemption Warrants shall not entitle the holder or the owner of any beneficial interest in the Redemption Warrants to any rights as a stockholder of the Company, including any rights to vote, to receive dividends or other distributions, to exercise any preemptive right, or to receive notice as stockholders in respect of any meetings of stockholders. A holder of a Redemption Warrant (or its proposed transferee) who cannot establish to the satisfaction of the Company that it is a U.S. Citizen will not be permitted to exercise its Redemption Warrants to the extent the receipt of the shares upon exercise would cause such shares to constitute Excess Shares if they were issued.
- "Redemption Notes" means interest-bearing promissory notes of the Company with a maturity of not more than 10 years from the date of issue and bearing interest at a fixed rate equal to the yield on the U.S. Treasury note having a maturity comparable to the term of such Redemption Notes as published in The Wall Street Journal or comparable publication at the time of the issuance of the Redemption Notes. Such notes shall be governed by the terms of an indenture to be entered into by the Company and a trustee. Redemption Notes shall be redeemable at par plus accrued but unpaid interest.
- "New Noteholder Warrants" means the warrants issued pursuant to the Warrant Agreement, dated November 14, 2017, between the Company and American Stock Transfer & Trust LLC, as warrant agent, with respect to the warrants entitling the holders thereof to purchase shares of Common Stock with an exercise price per warrant equal to \$0.01 per share of Common Stock.

With respect to the portion of the Redemption Price being paid in whole or in part by cash and/or by the issuance of Redemption Notes, such portion of the Redemption Price shall be an amount equal to, in the case of cash, or a principal amount equal to, in the case of Redemption Notes, the sum of (A) the Fair Market Value of such Excess Share as of the date of redemption of such Excess Share less (B) an amount equal to the amount of any dividend or any other distribution (upon liquidation or otherwise) which were paid to the holder of record of such Excess Share prior to the date on which such Excess Share is called for redemption instead of being paid into a segregated account by the Company.

Written notice of the redemption of the Excess Shares containing the information set forth in Section 6.6(c)(v) of Article VI of the Certificate of Incorporation, together with a letter of transmittal to accompany certificates, if any, representing the Excess Shares that have been called for redemption, shall be given either by hand delivery or by overnight courier service or by first-class mail, postage prepaid, to each holder of record of the Excess Shares to be redeemed, at such holder's last known address as the same appears on the stock register of the Company (the "Redemption Notice"), unless such notice is waived in writing by any such holders.

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The date on which the Excess Shares shall be redeemed (the “Redemption Date”) shall be the later of (A) the date specified in the Redemption Notice sent to the record holder of the Excess Shares (which shall not be earlier than the date of such notice), and (B) the date on which the Company has irrevocably deposited in trust with a paying agent or set aside for the benefit of such record holder consideration sufficient to pay the Redemption Price to such record holders of such Excess Shares in Redemption Warrants, cash and/or Redemption Notes.

Each Redemption Notice to each holder of record of the Excess Shares to be redeemed shall specify (A) the Redemption Date (as determined pursuant to Section 6.6(c)(iv) of Article VI of the Certificate of Incorporation)), (B) the number and the class or series of shares of capital stock to be redeemed from such holder as Excess Shares (and, to the extent such Excess Shares are certificated, the certificate number(s) representing such Excess Shares), (C) the Redemption Price and the manner of payment thereof, (D) the place where certificates for such Excess Shares (if such Excess Shares are certificated) are to be surrendered for cancellation, (E) any instructions as to the endorsement or assignment for transfer of such certificates (if any) and the completion of the accompanying letter of transmittal, and (F) the fact that all right, title and interest in respect of the Excess Shares to be redeemed (including, without limitation, voting, dividend and distribution rights) shall cease and terminate on the Redemption Date, except for the right to receive the Redemption Price, without interest.

On and after the Redemption Date, all right, title and interest in respect of the Excess Shares selected for redemption (including, without limitation, voting and dividend and distribution rights) shall forthwith cease and terminate, such Excess Shares shall no longer be deemed to be outstanding shares for any purpose, including, without limitation, for purposes of voting or determining the total number of shares entitled to vote on any matter properly brought before the stockholders for a vote thereon or receiving any dividends or distributions (and may be either cancelled or held by the Company as treasury stock), and the holders of record of such Excess Shares shall thereafter be entitled only to receive the Redemption Price, without interest.

Upon surrender of the certificates (if any) for any Excess Shares so redeemed in accordance with the requirements of the Redemption Notice and the accompanying letter of transmittal (and otherwise in proper form for transfer as specified in the Redemption Notice), the holder of record of such Excess Shares shall be entitled to payment of the Redemption Price. In case fewer than all the shares represented by any such certificate are redeemed, a new certificate (or certificates), to the extent such shares were certificated, shall be issued representing the shares not redeemed, without cost to the holder of record. On the Redemption Date, to the extent that dividends or other distributions (upon liquidation or otherwise) with respect to the Excess Shares selected for redemption were paid into a segregated account, then, to the fullest extent permitted by applicable law, such amounts shall be released to the Company upon the completion of such redemption.

Nothing in Section 6.6 of Article VI of the Certificate of Incorporation will prevent the recipient of a Redemption Notice from transferring its shares before the Redemption Date if such transfer is otherwise permitted under the Certificate of Incorporation and applicable law and the recipient provides notice of such proposed transfer to the Company along with the documentation and information required under Article VI of the Certificate of Incorporation establishing that such proposed transferee is a U.S. Citizen to the satisfaction of the Company in its sole discretion before the Redemption Date. If such conditions are met, the Board of Directors (or any duly authorized committee thereof) will withdraw the Redemption Notice related to such shares, but otherwise the redemption thereof will proceed on the Redemption Date in accordance with Section 6.6 of Article VI of the Certificate of Incorporation and the Redemption Notice.

#### *Permitted Actions by the Company to the Maritime Restrictions*

The Company has the power to determine the citizenship of the beneficial owners and the transferees or proposed transferees (and, if such transferees or proposed transferees are acting as fiduciaries or nominees for any beneficial owners, the citizenship of such beneficial owners) of any class or series of the Company’s capital stock and to require confirmation from time to time of the citizenship of the beneficial owners of any shares of its capital stock. As a condition to acquiring and having beneficial ownership of any shares of its capital stock, every beneficial owner of the Company’s shares must comply with certain provisions in the Certificate of Incorporation concerning citizenship, which are summarized below. The Company has the right under its Certificate of Incorporation to require additional reasonable proof of the citizenship of beneficial owners, transferees or proposed transferees (and any beneficial owners for whom such transferees or proposed transferees are acting as fiduciaries or nominees) of any shares of its capital stock, and the determination of the Company at any time as to the citizenship of such persons is conclusive.

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The Certificate of Incorporation requires that promptly upon a beneficial owner's acquisition of beneficial ownership of 5% or more of the outstanding shares of any class or series of capital stock of the Company, and at such other times as the Company may determine by written notice to such beneficial owner, such beneficial owner must provide to the Company a written statement or an affidavit, as specified by the Company, stating the name and address of such beneficial owner, the number of shares of each class or series of capital stock of the Company beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, a statement as to whether such beneficial owner is a U.S. Citizen, and such other information and documents required by the U.S. Coast Guard or the U.S. Maritime Administration under the U.S. Maritime Laws, including 46 C.F.R. part 355. In addition, under the Certificate of Incorporation, a beneficial owner is required to provide such a written statement or affidavit when the Company determines, in its sole discretion, that the citizenship status of such beneficial owner may have changed or that it is necessary under the U.S. Maritime Laws for the Company to confirm the Company's citizenship status.

Under the Certificate of Incorporation, when a beneficial owner of any shares of our capital stock ceases to be a U.S. Citizen, such beneficial owner is required to provide to the Company, as promptly as practicable but in no event less than five business days after the date such beneficial owner is no longer a U.S. Citizen, a written statement, stating the name and address of such beneficial owner, the number of shares of each class or series of its capital stock beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, and a statement as to such change in status of such beneficial owner to a Non-U.S. Citizen.

The Certificate of Incorporation requires that, promptly after becoming a beneficial owner, every beneficial owner must provide, or authorize such beneficial owner's broker, dealer, custodian, depository, nominee or similar agent with respect to the shares of each class or series of the Company's capital stock beneficially owned by such beneficial owner to provide, to the Company such beneficial owner's address. A beneficial owner of the Company's capital stock is also required by the Certificate of Incorporation to provide promptly upon request the Company with a written statement or an affidavit, as specified by the Company, stating the name and address of such beneficial owner, together with reasonable documentation of the date and time of such beneficial owner's acquisition of beneficial ownership of the shares of any class or series of capital stock of the Company specified by the Company in its request.

In the event that the Company requests the documentation described above and a beneficial owner fails to provide it by the specified date, the Certificate of Incorporation provides for the suspension of the voting rights of such beneficial owner's shares of the Company's capital stock and for the payment of dividends and distributions (upon liquidation or otherwise) with respect to those shares into a segregated account until the requested documentation is submitted in form and substance reasonably satisfactory to the Company (subject to the other Maritime Restrictions). In addition, the Company, upon approval by the Board of Directors (or any duly authorized committee thereof) in its sole discretion, has the power to treat such beneficial owner as a Non-U.S. Citizen unless and until the Company receives the requested documentation confirming that such beneficial owner is a U.S. Citizen.

In the event that the Company requests a transferee or proposed transferee (and, if such transferee or proposed transferee is acting as a fiduciary or nominee for a beneficial owner, such beneficial owner) of, shares of any class or series of the Company's capital stock to provide the documentation described above, and such person fails to submit it in form and substance reasonably satisfactory to the Company by the specified date, the Company, acting through its Board of Directors (or any duly authorized committee thereof, or any officer of the Company who shall have been duly authorized by the Board of Directors or any such committee thereof), will have the power, in its sole discretion, to refuse to accept any application to transfer ownership of such shares (if any) or to register such shares on the stock transfer records of the Company and may prohibit and/or void such transfer, including by placing a stop order with the Company's transfer agent, until such requested documentation is submitted and the Company is satisfied that the proposed transfer of shares will not result in Excess Shares.

Certificates representing shares of any class or series of the Company's capital stock will bear legends concerning the restrictions on ownership by persons other than U.S. Citizens.

#### *Maritime Restrictions Severable*

The Maritime Restrictions are intended to be severable. If any one or more of the Maritime Restrictions is held to be invalid, illegal or unenforceable, the Certificate of Incorporation provides that the validity, legality or enforceability of any other provision will not be affected.

#### *National Securities Exchange*

In order for us to comply with any conditions to listing the shares of the Common Stock that may be specified by the New York Stock Exchange or any other national securities exchange or automated inter-dealer quotation system, the Certificate of Incorporation provides that nothing therein, such as the provisions voiding transfers to Non-U.S. Citizens, will preclude the settlement of any transaction entered into through the New York Stock Exchange or any other such national securities exchange or automated inter-dealer quotation system for so long as the Common Stock is listed on the New York Stock Exchange. However, the fact that the settlement of any transaction occurs shall not negate the effect of any provision of Article VI of the Certificate of Incorporation and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in therein (including, without limitation, the redemption provisions applicable to Excess Shares).

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**Item 2. Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
2.1	Chapter 11 Plan of Reorganization of GulfMark Offshore, Inc. dated May 17, 2017 (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed on May 18, 2017).
3.1*	Amended and Restated Certificate of Incorporation of GulfMark Offshore, Inc.
3.2*	Amended and Restated Bylaws of GulfMark Offshore, Inc.
4.1*	Specimen Stock Certificate representing Common Stock.
4.2*	Form of Warrant Agreement relating to Redemption Warrants to be entered into by GulfMark Offshore, Inc., as Issuer, and American Stock Transfer & Trust Company, LLC, as Warrant Agent.
10.1*	Registration Rights Agreement by and among GulfMark Offshore, Inc. and certain holders identified therein.
99.1	Order of the Bankruptcy Court, dated October 4, 2017, confirming the Chapter 11 Plan of Reorganization of GulfMark Offshore, Inc. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K filed on October 5, 2017).

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\* Filed herewith.

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## EXHIBIT INDEX

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\* Filed herewith.

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**SIGNATURE**

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the Registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

Dated: November 14, 2017

GulfMark Offshore, Inc.

By: /s/ Quintin V. Kneen

Name: Quintin V. Kneen

Title: President and Chief Executive  
Officer

**AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
GULFMARK OFFSHORE, INC.**

Adopted in accordance with the provisions of § 245 of the General Corporation Law of the State of Delaware

I, Quintin Kneen, being an authorized officer of GulfMark Offshore, Inc., a corporation organized and existing under the laws of Delaware (together with its predecessor-in-interest, the "Corporation"), do hereby certify as follows:

**FIRST:** The name of the Corporation is GulfMark Offshore, Inc. The Corporation was originally incorporated under the name of New Gulf Offshore, Inc.

**SECOND:** The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of Delaware on October 13, 2009.

**THIRD:** On May 17, 2017 the Corporation filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") under Case No. 17-11125. On May 17, 2017, the Corporation filed that certain Chapter 11 Plan of Reorganization (as amended or supplemented from time to time, the "Plan"), which was confirmed on October 4, 2017 by order (the "Order") of the Bankruptcy Court and thereby has been approved pursuant to Section 303 of the General Corporation Law of the State of Delaware (the "DGCL"). The Plan, as confirmed by the Order, provides for the amendment and restatement of the Corporation's Certificate of Incorporation in its entirety to read as set forth in Exhibit A attached hereto and made a part hereof (the "Amended and Restated Certificate of Incorporation").

**FOURTH:** The Amended and Restated Certificate of Incorporation has been duly executed and acknowledged by an officer of the Corporation.

**IN WITNESS WHEREOF**, the undersigned, for the purpose of amending and restating the Certificate of Incorporation of the Corporation pursuant to the DGCL, under penalties of perjury does hereby declare and certify that this is the act and deed of the Corporation and the facts stated herein are true, and accordingly has hereunto signed this Amended and Restated Certificate of Incorporation this 14th day of November, 2017.

By: \_\_\_\_/s/ Quintin V. Kneen\_\_\_\_\_

Name: Quintin V. Kneen

Title: President and Chief Executive Officer

[SIGNATURE PAGE TO AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF GULFMARK OFFSHORE, INC.]

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**EXHIBIT A**

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**AMENDED AND RESTATED**  
**CERTIFICATE OF INCORPORATION**  
**OF**  
**GULFMARK OFFSHORE, INC.**

**ARTICLE I**  
**NAME**

The name of the corporation is GulfMark Offshore, Inc. (hereinafter, the “Corporation”).

**ARTICLE II**  
**REGISTERED OFFICE AND AGENT**

The address of the Corporation’s registered office in the State of Delaware is 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of the Corporation’s registered agent at such address is The Corporation Trust Company. The registered office and registered agent of the Corporation may be amended or modified from time to time in accordance with the Bylaws of the Corporation (as may be amended, modified or supplemented from time to time in accordance with the terms thereof, the “Bylaws”).

**ARTICLE III**  
**PURPOSE**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (as the same exists or may hereafter be amended from time to time, the “DGCL”).

**ARTICLE IV**  
**CAPITAL STOCK**

**Section 4.1 Authorized Shares.** The total number of shares of capital stock that the Corporation shall have authority to issue is 30,000,000 shares, consisting of (i) 25,000,000 shares of Common Stock, par value \$0.01 per share (“Common Stock”), and (ii) 5,000,000 shares of Preferred Stock, par value \$0.01 per share (“Preferred Stock”). The number of authorized shares of Preferred Stock or Common Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority in voting power of the stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the DGCL (or any successor provision thereto), unless the vote of the holders of any of the Common Stock or the Preferred Stock voting separately as a class shall be required therefor pursuant to this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation (as defined below)).



**Section 4.2 Common Stock.** Each holder of record of Common Stock shall be entitled to one (1) vote for each share of Common Stock that is registered in such holder's name on the books of the Corporation. The holders of record of Common Stock shall vote together as a single class on all matters on which holders of the Common Stock are entitled to vote except as otherwise required by applicable law. Holders of shares of Common Stock shall be entitled to receive equally, on a per share basis, such dividends or distributions as are lawfully declared on the Common Stock, to have notice of any authorized meeting of holders of Common Stock, and, upon liquidation, dissolution or winding up of the affairs of the Corporation, to share equally, on a per share basis, in the assets thereof that may be available for distribution after satisfaction of creditors and of the preferences of shares of Preferred Stock. Except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation (as defined below)) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation (as defined below)) or pursuant to the DGCL, provided that such amendment does not alter or change the designations, powers, preferences or rights of the shares of Common Stock so as to affect them adversely.

**Section 4.3 Preferred Stock.** Shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Corporation (the "Board of Directors") is hereby authorized, to the fullest extent now or hereafter permitted by the laws of the State of Delaware, to provide for the issuance of shares of Preferred Stock in one or more series, to establish from time to time the number of shares to be included in each such series, and to fix the designations, powers, preferences and rights of the shares of each such series and any qualifications, limitations or restrictions thereof (any certificate of designation adopted by the Board of Directors designating the designations, powers, preferences and rights, and qualifications, limitations, or restrictions, of shares of Preferred Stock and filed pursuant to the applicable law of the State of Delaware, a "Preferred Stock Designation"). The authority of the Board of Directors with respect to each series includes, but is not limited to, determination of the following:

- (a) the designation of the series, which may be by distinguishing number, letter or title;
- (b) the number of shares of the series, which number the Board of Directors may thereafter increase or decrease (but not below the number of shares thereof then-outstanding);
- (c) the amounts payable on, and the preferences, if any, of shares of the series in respect of dividends, and whether such dividends, if any, shall be cumulative or noncumulative;
- (d) dates at which dividends, if any, shall be payable;
- (e) the redemption rights and price or prices, if any, for shares of the series;
- (f) the terms and amount of any sinking fund providing for the purchase or redemption of shares of the series;
- (g) the amounts payable on, and the preferences (if any) of, shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;

(h) whether the shares of the series shall be convertible or exercisable into or exchangeable for shares of any other class or series, or any other security, of the Corporation or any other corporation or entity, and, if so, the specification of such other class or series or such other security, the conversion, exercise or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible, exercisable or exchangeable and all other terms and conditions upon which such conversion, exercise or exchange may be made;

(i) restrictions on the issuance of shares of the same series or of any other class or series; and

(j) subject to Section 4.5, the voting rights and powers of the holders of shares of the series.

Except as otherwise required by law, holders of a series of Preferred Stock, as such, shall be entitled only to such voting rights, if any, as shall be expressly granted thereto by this Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation). Except as may be provided in this Amended and Restated Certificate of Incorporation or in any Preferred Stock Designation, holders of Preferred Stock shall not be entitled to receive notice of any meeting of stockholders at which they are not entitled to vote.

**Section 4.4 Record Holders.** The Corporation shall be entitled to treat the person or entity in whose name any share of its stock is registered as the owner thereof for all purposes and shall not be bound to recognize any equitable or other claim to, or interest in, such share on the part of any other person or entity, whether or not the Corporation shall have notice thereof, except as expressly provided by applicable law.

**Section 4.5 Nonvoting Stock.** To the extent prohibited by Section 1123 of Title 11 of the United States Bankruptcy Code (as amended, the "Bankruptcy Code"), the Corporation shall not issue any class or series of nonvoting equity securities; provided, however, that the foregoing (a) will have no force and effect beyond that required under Section 1123 of the Bankruptcy Code and (b) may be amended or eliminated in accordance with applicable law as from time to time in effect. For the purposes of this Section 4.5, any class or series of equity securities that has only such voting rights as are mandated by the DGCL shall be deemed to be nonvoting for purposes of the restrictions of this Section 4.5.

**Section 4.6 Quorum.** Except as otherwise provided by law, the holders of a majority in voting power of the outstanding shares of capital stock of the Corporation entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders of the Corporation. If a quorum is not present, the chairman of the meeting or the holders of a majority in voting power of the shares of capital stock of the Corporation present in person or represented by proxy at the meeting, and entitled to vote at the meeting, may adjourn the meeting to another place, if any, date and time. When a quorum is once present to commence a meeting of the stockholders of the Corporation, it is not broken by the subsequent withdrawal of any stockholders or their proxies.

**Section 4.7 Special Meetings.** Special meetings of stockholders of the Corporation may be called at any time and from time to time only upon the written request (stating the purpose or purposes of the meeting) of (a) the Board of Directors, (b) the Chairman of the Board of Directors, or (c) the holders of ten percent or more of the total voting power of all the shares of the Corporation entitled to vote generally in the election of directors. Except as otherwise required by law or provided in the instrument of designation of any series of preferred stock of the Corporation, special meetings of the stockholders of the Corporation may not be called by any person, group or entity other than those specifically enumerated in this Section 4.7.

**Section 4.8 Stockholder Action by Written Consent without a Meeting.** Any action required or permitted to be taken at any annual or special meetings of the stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote, by a consent or consents in writing, setting forth the action so taken, (a) signed by stockholders of the Corporation holding not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all the shares of the Corporation entitled to vote thereon were present and voted and (b) delivered to the Corporation in accordance with Section 228 of the DGCL.

## **ARTICLE V PERPETUAL EXISTENCE**

The Corporation shall have perpetual existence.

## **ARTICLE VI COMPLIANCE WITH U.S. MARITIME LAWS**

**Section 6.1 Certain Definitions.** For purposes of this Article VI, the following terms shall have the meanings specified below:

(a) A Person shall be deemed to be the “beneficial owner” of, or to “beneficially own”, or to have “beneficial ownership” of, shares of the capital stock of the Corporation to the extent such Person (i) would be deemed to be the “beneficial owner” thereof pursuant to Rule 13d-3 promulgated by the Securities and Exchange Commission under the Exchange Act, as such rule may be amended or supplemented from time to time, and any successor to such rule, and such terms shall apply to and include the holder of record of shares in the Corporation, or (ii) otherwise has the ability to exercise or to control, directly or indirectly, any interest or rights thereof, including any voting power of the shares of the capital stock of the Corporation, under any contract, understanding or other means; provided, however, that a Person shall not be deemed to be the “beneficial owner” of, or to “beneficially own” or to have “beneficial ownership” of, shares of the capital stock of the Corporation if the Corporation determines in accordance with this Article VI that such Person is not the beneficial owner of such shares for purposes of the U.S. Maritime Laws.

(b) “Effective Date” shall mean the date on which all conditions to the effectiveness of the Plan set forth therein have been satisfied or waived in accordance with the terms thereof.

- (c) “Excess Shares” shall have the meaning ascribed to such term in Section 6.5 of this Article VI.
- (d) “Excess Share Date” shall have the meaning ascribed to such term in Section 6.5 of this Article VI.
- (e) “Exchange Act” shall mean the Securities Exchange Act of 1934, as amended or supplemented from time to time.

(f) “Fair Market Value” of one share of a particular class or series of the capital stock of the Corporation shall mean the arithmetic average of the daily VWAP of one share of such capital stock for the twenty (20) consecutive Trading Days immediately preceding the date of measurement, or, if such capital stock is not listed or admitted for unlisted trading privileges on the New York Stock Exchange, NASDAQ Stock Market or other National Securities Exchange, the average of the reported closing bid and asked prices of such class or series of capital stock on such dates in the over-the-counter market or a comparable system as shown by a system of automated dissemination of quotations of securities prices then in common use comparable to the National Association of Securities Dealers, Inc. Automated Quotations System; provided, however, that if at such date of measurement there is otherwise no established trading market for such capital stock, or the number of consecutive Trading Days since the Effective Date is less than twenty (20), the “Fair Market Value” of a share of such capital stock shall be determined in good faith by the Board of Directors (or any duly authorized committee thereof).

(g) “National Securities Exchange” shall mean an exchange registered with the Securities and Exchange Commission under Section 6(a) of the Exchange Act, as such section may be amended or supplemented from time to time, and any successor to such statute, or the NASDAQ Stock Market or any successor thereto.

(h) “New Noteholder Warrants” shall mean the warrants issued pursuant to the Warrant Agreement, dated November 14, 2017, between the Company and American Stock Transfer & Trust LLC, as warrant agent, with respect to the warrants entitling the holders thereof to purchase shares of Common Stock with an exercise price per warrant equal to \$0.01 per share of Common Stock.

(i) “Non-U.S. Citizen” shall mean any Person other than a U.S. Citizen.

(j) “Permitted Percentage” shall mean, with respect to any class or series of capital stock of the Corporation, with respect to all Non-U.S. Citizens in the aggregate, 24% of the shares of such class or series of capital stock of the Corporation from time to time issued and outstanding.

(k) “Person” means any individual, corporation, limited liability company, partnership, firm, joint venture, association, joint-stock company, limited liability partnership, trust, unincorporated organization, or government or any agency or political subdivision thereof, or other entity.

(l) “Redemption Date” shall have the meaning ascribed to such term in Section 6.6(c)(iv) of this Article VI.

(m) “Redemption Notes” shall mean interest-bearing promissory notes of the Corporation with a maturity of not more than 10 years from the date of issue and bearing interest at a fixed rate equal to the yield on the U.S. Treasury Note having a maturity comparable to the term of such Redemption Notes as published in The Wall Street Journal or comparable publication at the time of the issuance of the Redemption Notes. Such notes shall be governed by the terms of an indenture to be entered into by and between the Corporation and a trustee, as such indenture may be amended from time to time. Redemption Notes shall be redeemable at par plus accrued but unpaid interest.

(n) “Redemption Notice” shall have the meaning ascribed to such term in Section 6.6(c)(iii) of this Article VI.

(o) “Redemption Price” shall have the meaning ascribed to such term in Section 6.6(c)(i) of this Article VI.

(p) “Redemption Warrant” shall mean the right to purchase one share of any specified class or series of the capital stock of the Corporation at an exercise price of \$0.01 per share governed by the terms of a warrant agreement to be entered into by and between the Corporation and a warrant agent, substantially in the form on file with the Securities and Exchange Commission. Prior to the issuance of the specified class or series of the capital stock of the Corporation issuable upon exercise of any Redemption Warrants, the Redemption Warrants shall not entitle the holder or the owner of any beneficial interest in the Redemption Warrants to any rights as a stockholder of the Corporation, including, without limitation, any rights to vote, to receive dividends or other distributions, to exercise any preemptive right, or to receive notice as stockholders in respect of any meetings of stockholders. A holder of a Redemption Warrant (or its proposed transferee) who cannot establish to the satisfaction of the Corporation that it is a U.S. Citizen shall not be permitted to exercise its Redemption Warrants to the extent the receipt of the shares upon exercise would cause such shares to constitute Excess Shares if they were issued.

(q) “Trading Day” shall mean a day on which the principal National Securities Exchange on which shares of any class or series of the capital stock of the Corporation are listed is open for the transaction of business or, if such capital stock is not listed or admitted for unlisted trading privileges on any National Securities Exchange, a day on which banking institutions in New York City generally are open.

(r) “transfer” shall mean any transfer of beneficial ownership of shares of the capital stock of the Corporation, including original issuance of shares, issuance of shares upon the exercise, conversion or exchange of any securities of the Corporation, transfer by merger, transfer by testamentary disposition, transfer pursuant to a court order or arbitration award, or otherwise by operation of law.

(s) “transferee” shall mean any Person receiving beneficial ownership of shares of the capital stock of the Corporation, including any recipient of shares resulting from the original issuance of shares, the issuance of shares upon the exercise, conversion or exchange of any securities of the Corporation, transfer by merger, transfer by testamentary disposition, transfer pursuant to a court order or arbitration award, or otherwise by operation of law.

(t) “U.S. Citizen” shall mean a citizen of the United States within the meaning of the U.S. Maritime Laws, eligible and qualified to own and operate U.S.-flag vessels in the U.S. Coastwise Trade.

(u) “U.S. Coastwise Trade” shall mean the carriage or transport of merchandise and/or other materials and/or passengers in the coastwise trade of the United States of America within the meaning of 46 U.S.C. Chapter 551 and any successor statutes thereto, as amended or supplemented from time to time.

(v) “U.S. Maritime Laws” shall mean, collectively, the U.S. citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551 and any successor statutes thereto, together with the rules and regulations promulgated thereunder by the U.S. Coast Guard and the U.S. Maritime Administration and their practices enforcing, administering and interpreting such laws, statutes, rules and regulations, in each case as amended or supplemented from time to time, relating to the ownership and operation of U.S.-flag vessels in the U.S. Coastwise Trade.

(w) “VWAP” means for any Trading Day, the price for securities (including Common Stock) determined by the daily volume weighted average price per unit of securities for such Trading Day on the New York Stock Exchange or NASDAQ Stock Market, as the case may be, in each case, for the regular trading session (including any extensions thereof, without regard to pre-open or after hours trading outside of such regular trading session), or if such securities are not listed or quoted on the New York Stock Exchange or NASDAQ Stock Market, as reported by the principal National Securities Exchange on which such securities are then listed or quoted, whichever is applicable, as published by Bloomberg at 4:15 P.M., New York City time (or 15 minutes following the end of any extension of the regular trading session), on such Trading Day.

**Section 6.2 Restrictions on Ownership of Shares by Non-U.S. Citizens.** No Non-U.S. Citizens shall be permitted to beneficially own in the aggregate more than the Permitted Percentage of any class or series of the capital stock of the Corporation. To help ensure that at no time Non-U.S. Citizens in the aggregate become the beneficial owners of more than the Permitted Percentage of the issued and outstanding shares of any class or series of capital stock of the Corporation, and to enable the Corporation to comply with any requirement that it be, and submit any proof that it is, a U.S. Citizen under any applicable law or under any contract with the United States government (or any agency thereof), the Corporation shall have the power to take the actions prescribed in Section 6.3 through Section 6.8 of this Article VI. The provisions of this Article VI are intended to ensure that the Corporation continues to qualify as a U.S. Citizen under the U.S. Maritime Laws so that the Corporation does not cease to be qualified: (a) under the U.S. Maritime Laws to own and operate vessels in the U.S. Coastwise Trade; (b) to operate vessels under an agreement with the United States government (or any agency thereof); (c) to be a party to a maritime security program agreement with the United States government (or any agency thereof), under 46 U.S.C. Chapter 531 or any successor statute thereto, with respect to vessels owned, chartered or operated by the Corporation; (d) to maintain a construction reserve fund under 46 U.S.C. Chapter 533 or any successor statute thereto; (e) to maintain a capital construction fund under 46 U.S.C. Chapter 535 or any successor statute thereto; or (f) to own, charter, or operate any vessel where the costs of construction, modification, or reconstruction have been financed, in whole or in part, by obligations guaranteed by the United States government (or any agency thereof) under 46 U.S.C. Chapter 537 or any successor statute thereto. The Board of Directors (or any duly authorized committee thereof, or any officer of the Corporation who shall have been duly authorized by the Board of Directors or any such committee thereof) is specifically authorized to make all determinations and to adopt and effect all policies and measures necessary or desirable, in accordance with applicable law and this Amended and Restated Certificate of Incorporation, to fulfill the purposes or implement the provisions of this Article VI; provided, however, that determinations with respect to redemptions of any Excess Shares shall be made only by the Board of Directors (or any duly authorized committee thereof).

**Section 6.3 Stock Certificates.**

(a) To implement the requirements set forth in Section 6.2 of this Article VI, the Corporation may, but is not required to, institute a dual stock certificate system such that: (i) each certificate representing shares of each class or series of capital stock of the Corporation that are beneficially owned by a U.S. Citizen shall be marked “U.S. Citizen” and each certificate representing shares of each class or series of capital stock of the Corporation that are beneficially owned by a Non-U.S. Citizen shall be marked “Non-U.S. Citizen”, but with all such certificates to be identical in all other respects and to comply with all provisions of the laws of the State of Delaware; (ii) an application to transfer shares shall be set forth on the back of each certificate, in which a proposed transferee of title to the shares represented by such certificate shall apply to the Corporation to transfer the number of shares indicated therein and shall certify as to the citizenship of such proposed transferee and the citizenship of any beneficial owner for whom or for whose account such proposed transferee will hold such shares; (iii) a certification (which may include as part thereof a form of affidavit) upon which the Corporation and its transfer agent shall be entitled to rely conclusively shall be required to be submitted by each proposed transferee to whom or on whose behalf a certificate representing shares of the capital stock of the Corporation is to be issued upon completion of the proposed transfer stating whether such proposed transferee or, if such proposed transferee is acting as custodian, nominee, purchaser representative or in any other capacity for a beneficial owner, whether such beneficial owner, is a U.S. Citizen; and (iv) the stock transfer records of the Corporation may be maintained in such manner as to enable the percentages of the shares of each class or series of the Corporation’s capital stock that are beneficially owned by U.S. Citizens and by Non-U.S. Citizens to be confirmed. The Board of Directors (or any duly authorized committee thereof, or any officer of the Corporation who shall have been duly authorized by the Board of Directors or any such committee thereof) is authorized to take such other ministerial actions or make such interpretations of this Amended and Restated Certificate of Incorporation as it may deem necessary or advisable in order to implement a dual stock certificate system consistent with the requirements set forth in Section 6.2 of this Article VI and to ensure compliance with such system and such requirements.

(b) A conspicuous statement shall be set forth on the face or back of each certificate representing shares of each class or series of capital stock of the Corporation to the effect that: (i) such shares and the beneficial ownership thereof are subject to restrictions on transfer set forth in this Amended and Restated Certificate of Incorporation; and (ii) the Corporation will furnish without charge to each stockholder of the Corporation who so requests a copy of this Amended and Restated Certificate of Incorporation.

**Section 6.4 Restrictions on Transfers.**

(a) No shares of any class or series of the capital stock of the Corporation may be transferred to a Non-U.S. Citizen or a holder of record that will hold such shares for or on behalf of a Non-U.S. Citizen if, upon completion of such transfer, the number of shares of such class or series beneficially owned by all Non-U.S. Citizens in the aggregate would exceed the Permitted Percentage for such class or series. Any transfer or purported transfer of beneficial ownership of any shares of any class or series of capital stock of the Corporation, the effect of which would be to cause one or more Non-U.S. Citizens in the aggregate to beneficially own shares of any class or series of capital stock of the Corporation in excess of the Permitted Percentage for such class or series, shall, to the fullest extent permitted by law, be void ab initio and ineffective, and, to the extent that the Corporation or its transfer agent (if any) knows that such transfer or purported transfer would, if completed, be in violation of the restrictions on transfers to Non-U.S. Citizens set forth in this Article VI, neither the Corporation nor its transfer agent (if any) shall register such transfer or purported transfer on the stock transfer records of the Corporation and neither the Corporation nor its transfer agent (if any) shall recognize the transferee or purported transferee thereof as a stockholder of the Corporation for any purpose whatsoever (including for purposes of voting, dividends and other distributions) except to the extent necessary to effect any remedy available to the Corporation under this Article VI. In no event shall any such registration or recognition make such transfer or purported transfer effective unless the Board of Directors (or any duly authorized committee thereof, or any officer of the Corporation who shall have been duly authorized by the Board of Directors or any such committee thereof) shall have expressly and specifically authorized the same.



(b) In connection with any purported transfer of shares of any class or series of the capital stock of the Corporation, any transferee or proposed transferee of shares and, if such transferee or proposed transferee is acting as a fiduciary or nominee for a beneficial owner, such beneficial owner, may be required by the Corporation or its transfer agent to deliver (i) certification (which may include as part thereof a form of affidavit) upon which the Corporation and its transfer agent shall be entitled to rely conclusively stating whether such transferee or proposed transferee or, if such transferee or proposed transferee is acting as custodian, nominee, purchaser representative or in any other capacity for a beneficial owner, whether such beneficial owner, is a U.S. Citizen, and (ii) such other documentation and information concerning its citizenship under Section 6.8 of this Article VI as the Corporation may request in its sole discretion. Registration and recognition of any transfer of shares may be denied by the Corporation upon refusal to furnish any of the foregoing citizenship certifications, documentation or information requested by the Corporation. Each proposed transferor of such shares shall reasonably cooperate with any requests from the Corporation to facilitate the transmission of requests for such citizenship certifications and such other documentation and information to the proposed transferee and such proposed transferee's responses thereto.

(c) Notwithstanding any of the provisions of this Article VI, the Corporation shall be entitled to rely, without limitation, on the stock transfer and other stockholder records of the Corporation (and its transfer agent) for the purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies, and otherwise conducting votes of stockholders.

**Section 6.5 Excess Shares.** If on any date, including, without limitation, any record date (each, an "Excess Share Date"), the number of shares of any class or series of capital stock of the Corporation beneficially owned by all Non-U.S. Citizens in the aggregate should exceed the Permitted Percentage with respect to such class or series of capital stock, irrespective of the date on which such event becomes known to the Corporation (such shares in excess of the Permitted Percentage, the "Excess Shares"), then the shares of such class or series of capital stock of the Corporation that constitute Excess Shares for purposes of this Article VI shall be (x) those shares that have been acquired by or become beneficially owned by Non-U.S. Citizens, starting with the most recent acquisition of beneficial ownership of such shares by a Non-U.S. Citizen and including, in reverse chronological order of acquisition, all other acquisitions of beneficial ownership of such shares by Non-U.S. Citizens from and after the acquisition of beneficial ownership of such shares by a Non-U.S. Citizen that first caused such Permitted Percentage to be exceeded, or (y) those shares beneficially owned by Non-U.S. Citizens that exceed the Permitted Percentage as the result of any repurchase or redemption by the Corporation of shares of its capital stock, starting with the most recent acquisition of beneficial ownership of such shares by a Non-U.S. Citizen and going in reverse chronological order of acquisition; provided, however, that: (a) the Corporation shall have the power to determine, in its sole discretion, those shares of such class or series that constitute Excess Shares in accordance with the provisions of this Article VI; (b) the Corporation may, in its sole discretion, rely on any documentation provided by Non-U.S. Citizens with respect to the date and time of their acquisition of beneficial ownership of Excess Shares; (c) if the acquisition of beneficial ownership of more than one Excess Share occurs on the same date and the time of acquisition is not definitively established, then the order in which such acquisitions shall be deemed to have occurred on such date shall be determined by lot or by such other method as the Corporation may, in its sole discretion, deem appropriate; (d) Excess Shares that result from a determination that a beneficial owner has ceased to be a U.S. Citizen shall be deemed to have been acquired, for purposes of this Article VI, as of the date that such beneficial owner ceased to be a U.S. Citizen; and (e) the Corporation may adjust upward to the nearest whole share the number of shares of such class or series deemed to be Excess Shares. Any determination made by the Corporation pursuant to this Section 6.5 as to which shares of any class or series of the Corporation's capital stock constitute Excess Shares of such class or series shall be conclusive and shall be deemed effective as of the applicable Excess Share Date for such class or series.

## **Section 6.6    Redemption of Excess Shares.**

(a) In the event that (i) Section 6.4(a) of this Article VI would not be effective for any reason to prevent the transfer of beneficial ownership of any Excess Share of any class or series of the capital stock of the Corporation to a Non-U.S. Citizen (including by reason of the applicability of Section 6.10 of this Article VI), (ii) a change in the status of a Person from a U.S. Citizen to a Non-U.S. Citizen causes a share of any class or series of capital stock of the Corporation of which such Person is the beneficial owner to constitute an Excess Share, (iii) any repurchase or redemption by the Corporation of shares of its capital stock causes any share of any class or series of capital stock of the Corporation beneficially owned by all Non-U.S. Citizens in the aggregate to exceed the Permitted Percentage and thereby constitute an Excess Share, or (iv) a beneficial owner of a share of any class or series of capital stock of the Corporation has been determined to be or to be treated as a Non-U.S. Citizen pursuant to Section 6.7 or Section 6.8(c) of this Article VI, respectively, and the beneficial ownership of such share by such Non-U.S. Citizen results in such share constituting an Excess Share, then, the Corporation, by action of the Board of Directors (or any duly authorized committee thereof), in its sole discretion, shall have the power to redeem, unless the Corporation does not have sufficient lawfully available funds to permit such redemption or such redemption is not otherwise permitted under the DGCL or other applicable law, such Excess Share in accordance with this Section 6.6; provided, however, that the Corporation shall not have any obligation under this Section 6.6 to redeem any one or more Excess Shares.

(b) Until such time as any Excess Shares subject to redemption by the Corporation pursuant to this Section 6.6 are so redeemed by the Corporation at its option and beginning on the first Excess Share Date for the classes or series of the Corporation's capital stock of which such Excess Shares are a part, to the fullest extent permitted by applicable law,

(i) the holders of such Excess Shares subject to redemption shall (so long as such Excess Shares exist) not be entitled to any voting rights with respect to such Excess Shares, and

(ii) the Corporation shall (so long as such Excess Shares exist) pay into a segregated account dividends and any other distributions (upon liquidation or otherwise) in respect of such Excess Shares.

Full voting rights shall be restored to any shares of a class or series of capital stock of the Corporation that were previously deemed to be Excess Shares, and any dividends or distributions with respect thereto that have been previously paid into a segregated account shall be due and paid solely to the holders of record of such shares, promptly after such time as, and to the extent that, such shares have ceased to be Excess Shares (including as a result of the sale of such shares to a U.S. Citizen prior to the issuance of a Redemption Notice pursuant to Section 6.6(c)(iii) of this Article VI), provided, however, that such shares have not been already redeemed by the Corporation at its option pursuant to this Section 6.6.

(c) The terms and conditions of redemptions by the Corporation of Excess Shares of any class or series of the Corporation's capital stock under this Section 6.6 shall be as follows:

(i) the per share redemption price (the "Redemption Price") for each Excess Share shall be paid by the issuance of one Redemption Warrant for each Excess Share; provided, however, that if (x) the Corporation has received written advice of counsel that a Redemption Warrant would be treated as capital stock under the U.S. Maritime Laws due to a change in the U.S. Maritime Laws, a written change in the policies of the U.S. Coast Guard or a written notice from the U.S. Coast Guard to the Corporation or (y) the Corporation is prevented from legally issuing Redemption Warrants under applicable law, then the Redemption Price shall be paid, as determined by the Board of Directors (or any duly authorized committee thereof) in its sole discretion, (A) in cash (by wire transfer or bank or cashier's check), or (B) by the issuance of Redemption Notes or (C) by any combination of cash and Redemption Notes; provided further, however, if any outstanding Redemption Warrants or any outstanding New Noteholder Warrants must be restructured as a result of an event described in clause (x) above in order for the Company to comply with the U.S. Maritime Laws, then the Redemption Price shall be paid in the same consideration approved by the Board of Directors (or any duly authorized committee thereof) in its sole discretion to be paid by the Corporation to the holders of any outstanding Redemption Warrants and any outstanding New Noteholder Warrants in connection with such restructuring;

(ii) with respect to the portion of the Redemption Price being paid in whole or in part by cash and/or by the issuance of Redemption Notes, such portion of the Redemption Price shall be an amount equal to, in the case of cash, or a principal amount equal to, in the case of Redemption Notes, the sum of (A) the Fair Market Value of such Excess Share as of the date of redemption of such Excess Share less (B) an amount equal to the amount of any dividend or any other distribution (upon liquidation or otherwise) which were paid to the holder of record of such Excess Share prior to the date on which such Excess Share is called for redemption instead of being paid into a segregated account by the Corporation pursuant to Section 6.6(b) of this Article VI;

(iii) written notice of the redemption of the Excess Shares containing the information set forth in Section 6.6(c)(v) of this Article VI, together with a letter of transmittal to accompany certificates, if any, representing the Excess Shares that have been called for redemption, shall be given either by hand delivery or by overnight courier service or by first-class mail, postage prepaid, to each holder of record of the Excess Shares to be redeemed, at such holder's last known address as the same appears on the stock register of the Corporation (the "Redemption Notice"), unless such notice is waived in writing by any such holders;

(iv) the date on which the Excess Shares shall be redeemed (the “Redemption Date”) shall be the later of (A) the date specified in the Redemption Notice sent to the record holder of the Excess Shares (which shall not be earlier than the date of such notice), and (B) the date on which the Corporation has irrevocably deposited in trust with a paying agent or set aside for the benefit of such record holder consideration sufficient to pay the Redemption Price to such record holders of such Excess Shares in Redemption Warrants, cash and/or Redemption Notes;

(v) each Redemption Notice to each holder of record of the Excess Shares to be redeemed shall specify (A) the Redemption Date (as determined pursuant to Section 6.6(c)(iv) of this Article VI), (B) the number and the class or series of shares of capital stock to be redeemed from such holder as Excess Shares (and, to the extent such Excess Shares are certificated, the certificate number(s) representing such Excess Shares), (C) the Redemption Price and the manner of payment thereof, (D) the place where certificates for such Excess Shares (if such Excess Shares are certificated) are to be surrendered for cancellation, (E) any instructions as to the endorsement or assignment for transfer of such certificates (if any) and the completion of the accompanying letter of transmittal, and (F) the fact that all right, title and interest in respect of the Excess Shares to be redeemed (including, without limitation, voting, dividend and distribution rights) shall cease and terminate on the Redemption Date, except for the right to receive the Redemption Price, without interest;

(vi) on and after the Redemption Date, all right, title and interest in respect of the Excess Shares selected for redemption (including, without limitation, voting and dividend and distribution rights) shall forthwith cease and terminate, such Excess Shares shall no longer be deemed to be outstanding shares for any purpose, including, without limitation, for purposes of voting or determining the total number of shares entitled to vote on any matter properly brought before the stockholders for a vote thereon or receiving any dividends or distributions (and may be either cancelled or held by the Corporation as treasury stock), and the holders of record of such Excess Shares shall thereafter be entitled only to receive the Redemption Price, without interest; and

(vii) upon surrender of the certificates (if any) for any Excess Shares so redeemed in accordance with the requirements of the Redemption Notice and the accompanying letter of transmittal (and otherwise in proper form for transfer as specified in the Redemption Notice), the holder of record of such Excess Shares shall be entitled to payment of the Redemption Price. In case fewer than all the shares represented by any such certificate are redeemed, a new certificate (or certificates), to the extent such shares were certificated, shall be issued representing the shares not redeemed, without cost to the holder of record. On the Redemption Date, to the extent that dividends or other distributions (upon liquidation or otherwise) with respect to the Excess Shares selected for redemption were paid into a segregated account in accordance with Section 6.6(b) of this Article VI, then, to the fullest extent permitted by applicable law, such amounts shall be released to the Corporation upon the completion of such redemption.

(d) Nothing in this Section 6.6 shall prevent the recipient of a Redemption Notice from transferring its shares before the Redemption Date if such transfer is otherwise permitted under this Amended and Restated Certificate of Incorporation and applicable law and the recipient provides notice of such proposed transfer to the Corporation along with the documentation and information required under Section 6.4(b) and Section 6.8 of this Article VI establishing that such proposed transferee is a U.S. Citizen to the satisfaction of the Corporation in its sole discretion before the Redemption Date. If such conditions are met, the Board of Directors (or any duly authorized committee thereof) shall withdraw the Redemption Notice related to such shares, but otherwise the redemption thereof shall proceed on the Redemption Date in accordance with this Section and the Redemption Notice.

**Section 6.7 Citizenship Determinations.** The Corporation shall have the power to determine the citizenship of the beneficial owners and the transferees or proposed transferees of any class or series of the Corporation's capital stock for the purposes of this Article VI. In determining the citizenship of the beneficial owners or their transferees or proposed transferees (and, if such transferees or proposed transferees are acting as fiduciaries or nominees for any beneficial owners, with respect to such beneficial owners) of any class or series of the Corporation's capital stock, the Corporation may rely on the stock transfer records of the Corporation and the citizenship certifications required under Section 6.4(b) of this Article VI and the written statements and affidavits required under Section 6.8 of this Article VI given by the beneficial owners or their transferees or proposed transferees (or any beneficial owners for whom such transferees or proposed transferees are acting as fiduciaries or nominees), in each case whether such certifications, written statements or affidavits have been given on their own behalf or on behalf of others, to prove the citizenship of such beneficial owners, transferees or proposed transferees (or any beneficial owners for whom such transferees or proposed transferees are acting as fiduciaries or nominees). The determination of the citizenship of such beneficial owners, transferees or proposed transferees (and any beneficial owners for whom such transferees or proposed transferees are acting as fiduciaries or nominees) may also be subject to proof in such other manner as the Corporation may deem reasonable pursuant to Section 6.8(b) of this Article VI. The determination of the Corporation at any time as to the citizenship of such beneficial owners, transferees or proposed transferees (and any beneficial owners for whom such transferees or proposed transferees are acting as fiduciaries or nominees) in accordance with the provisions of Article VI shall be conclusive.

**Section 6.8 Requirement to Provide Citizenship Information.**

(a) In furtherance of the requirements of Section 6.2 of this Article VI, and without limiting any other provision of this Article VI, the Corporation may require the beneficial owners of shares of any class or series of the Corporation's capital stock to confirm their citizenship status from time to time in accordance with the provisions of this Section 6.8, and, as a condition to acquiring and having beneficial ownership of shares of any class or series of capital stock of the Corporation, every beneficial owner of any such shares must comply with the following provisions:

(i) promptly upon a beneficial owner's acquisition of beneficial ownership of five (5%) percent or more of the outstanding shares of any class or series of capital stock of the Corporation, and at such other times as the Corporation may determine by written notice to such beneficial owner, such beneficial owner must provide to the Corporation a written statement or an affidavit, as specified by the Corporation, duly signed, stating the name and address of such beneficial owner, the number of shares of each class or series of capital stock of the Corporation beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, a statement as to whether such beneficial owner is a U.S. Citizen, and such other information and documents required by the U.S. Coast Guard or the U.S. Maritime Administration under the U.S. Maritime Laws, including 46 C.F.R. part 355;

(ii) promptly upon request by the Corporation when the Corporation determines, in its sole discretion, that the citizenship status of a beneficial owner may have changed or that it is necessary under the U.S. Maritime Laws for the Corporation to confirm the Corporation's citizenship status, such beneficial owner must provide to the Corporation a written statement or an affidavit, as specified by the Corporation, duly signed, stating the name and address of such beneficial owner, the number of shares of each class or series of capital stock of the Corporation beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, a statement as to whether such beneficial owner is a U.S. Citizen, and such other information and documents required by the U.S. Coast Guard or the U.S. Maritime Administration under the U.S. Maritime Laws, including 46 C.F.R. part 355;

(iii) promptly upon request by the Corporation, any beneficial owner must provide to the Corporation a written statement or an affidavit, as specified by the Corporation, duly signed, stating the name and address of such beneficial owner, together with reasonable documentation of the date and time of such beneficial owner's acquisition of beneficial ownership of the shares of any class or series of capital stock of the Corporation specified by the Corporation in its request;

(iv) promptly after becoming a beneficial owner, every beneficial owner must provide, or authorize such beneficial owner's broker, dealer, custodian, depository, nominee or similar agent with respect to the shares of each class or series of the Corporation's capital stock beneficially owned by such beneficial owner to provide, to the Corporation such beneficial owner's address; and

(v) every beneficial owner must provide to the Corporation, at any time such beneficial owner ceases to be a U.S. Citizen, as promptly as practicable but in no event less than five business days after the date such beneficial owner becomes aware that it has ceased to be a U.S. Citizen, a written statement, duly signed, stating the name and address of the beneficial owner, the number of shares of each class or series of capital stock of the Corporation beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, and a statement as to such change in status of such beneficial owner to a Non-U.S. Citizen.

(b) The Corporation may at any time require reasonable proof, in addition to the citizenship certifications required under Section 6.4(b) of this Article VI and the written statements and affidavits required under Section 6.8(a) of this Article VI, of the citizenship of the beneficial owner or the transferee or proposed transferee (and, if such transferee or proposed transferee is acting as a fiduciary or nominee for a beneficial owner, with respect to such beneficial owner) of shares of any class or series of the Corporation's capital stock.

(c) In the event that (i) the Corporation requests in writing (in which express reference is made to this Section 6.8 of this Article VI) from a beneficial owner of shares of any class or series of the Corporation's capital stock a citizenship certification required under Section 6.4(b) of this Article VI, a written statement, an affidavit and/or reasonable documentation required under Section 6.8(a) of this Article VI, and/or additional proof of citizenship required under Section 6.8(b) of this Article VI, and (ii) such beneficial owner fails to provide the Corporation with the requested documentation by the date set forth in such written request, then, to the fullest extent permitted by applicable law: (A) (x) the voting rights of such beneficial owner's shares of the Corporation's capital stock shall be suspended and (y) any dividends or other distributions (upon liquidation or otherwise) with respect to such shares shall be paid into a segregated account, until such requested documentation is submitted in form and substance reasonably satisfactory to the Corporation, subject to the other provisions of this Article VI; provided, however, that the Corporation shall have the power, in its sole discretion, to extend the date by which such requested documentation must be provided and/or to waive the application of sub-clauses (x) and/or (y) of this clause (A) to any of the shares of such beneficial owner in any particular instance; and (B) the Corporation, upon approval by the Board of Directors (or any duly authorized committee thereof) in its sole discretion, shall have the power to treat such beneficial owner as a Non-U.S. Citizen unless and until the Corporation receives the requested documentation confirming that such beneficial owner is a U.S. Citizen.

(d) In the event that (i) the Corporation requests in writing (in which express reference is made to this Section 6.8 of this Article VI) from the transferee or proposed transferee (and, if such transferee or proposed transferee is acting as a fiduciary or nominee for a beneficial owner, with respect to such beneficial owner) of, shares of any class or series of the Corporation's capital stock a citizenship certification required under Section 6.4(b) of this Article VI, a written statement, an affidavit and/or reasonable documentation required under Section 6.8(a) of this Article VI, and/or additional proof of citizenship required under Section 6.8(b) of this Article VI, and (ii) such Person fails to submit the requested documentation in form and substance reasonably satisfactory to the Corporation, subject to the other provisions of this Article VI, by the date set forth in such written request, the Corporation, acting through its Board of Directors (or any duly authorized committee thereof, or any officer of the Corporation who shall have been duly authorized by the Board of Directors or any such committee thereof), shall have the power, in its sole discretion, to refuse to accept any application to transfer ownership of such shares (if any) or to register such shares on the stock transfer records of the Corporation and may prohibit and/or void such transfer, including by placing a stop order with the Corporation's transfer agent, until such requested documentation is so submitted and the Corporation is satisfied that the proposed transfer of shares will not result in Excess Shares.

**Section 6.9 Severability.** Each provision of this Article VI is intended to be severable from every other provision. If any one or more of the provisions contained in this Article VI is held to be invalid, illegal or unenforceable, the validity, legality or enforceability of any other provision of this Article VI shall not be affected, and this Article VI shall be construed as if the provisions held to be invalid, illegal or unenforceable had never been contained herein.

**Section 6.10 NYSE Transactions.** Nothing in this Article VI shall preclude the settlement of any transaction entered into through the facilities of the New York Stock Exchange or any other National Securities Exchange or automated inter-dealer quotation system for so long as any class or series of the capital stock of the Corporation is listed on the New York Stock Exchange. The fact that the settlement of any transaction occurs shall not negate the effect of any provision of this Article VI and any transferee in such a transaction shall be subject to all of the provisions and limitations set forth in this Article VI (including, without limitation, the redemption provisions of Section 6.6 of this Article VI applicable to Excess Shares).

## **ARTICLE VII BOARD OF DIRECTORS**

**Section 7.1 General Powers.** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The Board of Directors shall exercise all of the powers and duties conferred by law except as provided by this Amended and Restated Certificate of Incorporation or the Bylaws.

**Section 7.2 Number and Term.** The total number of directors constituting the entire Board of Directors shall be not less than one (1) nor more than fifteen (15). Initially, the Board of Directors shall be comprised of seven (7) directors. Each director shall hold office until the next annual meeting of stockholders and until his or her successor is elected and qualified or until his or her earlier death, resignation, removal or incapacity. The number of directors may be changed from time to time by resolution of a majority of the Board of Directors. Directors need not be stockholders.

**Section 7.3 Citizenship Requirement for Directors.** No more than a minority of the number of directors necessary to constitute a quorum of the Board of Directors (or such other portion thereof as the Board of Directors may determine to be necessary under U.S. Maritime Laws (as defined in Article VI) in order for the Corporation to continue as a U.S. Citizen (as defined in Article VI)) shall be Non-U.S. Citizens (as defined in Article VI).

**Section 7.4 Elections.** Unless and except to the extent that the Bylaws of the Corporation shall so require, elections of directors need not be by written ballot.



**Section 7.5 Vacancies and Newly Created Directorships.** Subject to the rights, if any, of the holders of shares of any class or series of preferred stock of the Corporation then outstanding to designate a director to fill a vacancy as set forth in the instrument of designation of such preferred stock applicable thereto, any vacancy on the Board of Directors resulting from any death, resignation, retirement, disqualification, removal from office, or newly created directorship resulting from any increase in the authorized number of directors or otherwise shall be filled by (a) the Board of Directors, acting by a majority of the remaining directors then in office, even if less than a quorum, or by a sole remaining director, or (b) stockholders of the Corporation, with an affirmative vote of the holders of a majority of the total voting power of all the shares of the Corporation entitled to vote generally in the election of directors, voting together as a single class. A director elected to fill a vacancy shall hold office for a term expiring at the annual meeting of stockholders and until such director's successor shall have been duly elected and qualified or until such director's earlier death, resignation or removal.

**Section 7.6 Bylaws.** In furtherance and not in limitation of the powers conferred by law, the Board of Directors is hereby expressly authorized to make, repeal, alter, amend and rescind the Bylaws by a majority vote at any regular or special meeting of the Board of Directors at which a quorum is present or by written consent, in accordance with the terms of the Bylaws. The stockholders shall also have the power to make, repeal, alter, amend and rescind the Bylaws, including the Bylaws made by the Board of Directors, in accordance with the terms of the Bylaws.

## ARTICLE VIII

### INDEMNIFICATION

**Section 8.1 Right to Indemnity.** Except as otherwise provided in that certain Chapter 11 Plan of Reorganization filed by the Corporation on May 17, 2017 in connection with Case No. 17-11125, which was confirmed on October 4, 2017 by order of the United States Bankruptcy Court for the District of Delaware (the "Plan"), each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, investigative or otherwise (hereinafter, a "proceeding"), by reason of the fact that such person, or a person of whom such person is the legal representative, is or was or has agreed to become a director or officer of the Corporation, or while a director or officer of the Corporation is or was serving or has agreed to serve at the request of the Corporation in any capacity, including as a director, officer, employee, fiduciary or agent, of another corporation or of a partnership, joint venture, trust or other enterprise, including, without limitation, service with respect to employee benefit plans maintained or sponsored by the Corporation or any of its subsidiaries (an "Indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee, fiduciary or agent or in any other capacity while serving as a director, officer, employee, fiduciary or agent, shall be indemnified and held harmless by the Corporation to the fullest extent which it is empowered to do so by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, to the fullest extent permitted by law, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than said law permitted the Corporation to provide prior to such amendment) against all cost, expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) actually and reasonably incurred by such Indemnitee in connection with a proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such person's conduct was unlawful. The termination of any claim, action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful. Such indemnification shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder, and such indemnification shall inure to the benefit of such person's heirs, executors and administrators. Notwithstanding the foregoing, except as provided in Section 8.3 with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any Indemnitee seeking indemnification in connection with a proceeding initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors.

**Section 8.2 Advancement of Expenses.** To the fullest extent to which it is permitted to do so by the DGCL or other applicable law, the Corporation shall, in advance of the final disposition of the matter, pay the expenses and costs (including attorneys' fees) actually and reasonably incurred by any Indemnitee in defending or otherwise participating in any proceeding and any appeal therefrom for which such person may be entitled to such indemnification under this Article VIII or otherwise; provided, however, if required by the DGCL, such payment of expenses and costs in advance of the final disposition of the proceeding shall be made only upon receipt by the Corporation of an undertaking by or on behalf of such Indemnitee to repay all amounts advanced if it should be ultimately determined by final judicial decision from which there is no further right to appeal that such Indemnitee is not entitled to be indemnified for such expenses under this Article VIII or otherwise. Expenses incurred by other employees, fiduciaries and agents who are considered Indemnitees hereunder may be so paid upon such terms and conditions, if any, as the Board of Directors deems appropriate.

**Section 8.3 Procedures for Indemnification of Directors and Officers.** Any indemnification or advancement of expenses under this Article VII shall be made promptly, and in any event within thirty (30) days, upon the written request of the Indemnitee, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days. If a determination by the Corporation that the Indemnitee is entitled to indemnification pursuant to this Article VIII is required, and the Corporation fails to respond within sixty (60) days to a written request for indemnity, the Corporation shall be deemed to have approved the request. If the Corporation denies a written request for indemnification or advancement of expenses, in whole or in part, or if payment in full pursuant to such request is not made within thirty (30) days (or twenty (20) days in the case of a claim for advancement of expenses), the right to indemnification or advancement of expenses as granted by this Article VIII shall be enforceable by the Indemnitee in any court of competent jurisdiction. Such Indemnitee's costs and expenses incurred in connection with successfully establishing the right to indemnification, in whole or in part, in any such action or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, shall also be indemnified by the Corporation. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any, has been tendered to the Corporation) that the Indemnitee has not met the standards of conduct which make it permissible under the DGCL for the Corporation to indemnify the Indemnitee for the amount claimed, but the burden of such defense shall be on the Corporation. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the Indemnitee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the DGCL nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the Indemnitee has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VIII or otherwise, shall be on the Corporation.

**Section 8.4 Requested Services.** Without limiting the meaning of the phrase “serving at the request of the Corporation” as used herein, any person serving as a director, officer or equivalent executive of (a) another corporation of which a majority of the shares entitled to vote in the election of its directors is owned, directly or indirectly, by the Corporation, or (b) any employee benefit plan maintained or sponsored by the Corporation or any corporation referred to in clause (a), shall be deemed to be doing so at the request of the Corporation for purposes of Section 8.1.

**Section 8.5 Contract Rights.** The provisions of this Article VIII shall be deemed to be a contract right between the Corporation and each Indemnitee and such rights shall continue as to an Indemnitee who has ceased to be a director, officer, employee, fiduciary or agent, or if the relevant provisions of the DGCL or other applicable law cease to be in effect. Such contract right shall vest for each Indemnitee who is a director, officer, employee, fiduciary or agent at the time such person is elected or appointed to such position, and no repeal or modification of this Article VIII or any such law shall affect any such vested rights or obligations then existing with respect to any state of facts or proceeding arising after such election or appointment and prior to such repeal or modification.

**Section 8.6 Insurance.** The Corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was a director, officer, employee, fiduciary or agent of the Corporation or was serving at the request of the Corporation as a director, officer, employee, fiduciary or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person’s status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the DGCL or this Article VIII.

**Section 8.7 Employees and Agents.** Except as otherwise provided in the Plan, Persons who are not covered by the foregoing provisions of this Article VIII and who are or were employees, fiduciaries or agents of the Corporation, or who are or were serving at the request of the Corporation as employees, fiduciaries or agents of another corporation, partnership, joint venture, trust or other enterprise, may be indemnified to the extent authorized at any time or from time to time by the Board of Directors to the fullest extent of this Article VIII.

**Section 8.8 Merger or Consolidation.** For purposes of this Article VIII, references to “the Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including, without limitation, any constituent of a constituent) absorbed in a consolidation or merged in a merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director or officer of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee, fiduciary or agent of another corporation or of a partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article VIII with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

**Section 8.9 Non-Exclusivity of Rights.** The rights to indemnification and the advancement of expenses and costs conferred under this Article VIII shall not be exclusive of any other rights to which those seeking indemnification or advancement of expenses and costs may be entitled under any applicable law, provision of this Amended and Restated Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person’s official capacity and as to action in another capacity while holding such office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors or officers respecting indemnification and advances, to the fullest extent not prohibited by the DGCL or by any other applicable law.

**Section 8.10 Amendments.** No amendment, repeal or modification of, and no adoption of any provision inconsistent with, any provision of this Article VIII shall adversely affect any right or protection of a director or officer of the Corporation existing by virtue of this Article VIII at the time of such amendment, repeal, modification or adoption.

**Section 8.11 Jointly Indemnifiable Claims.** Given that certain jointly indemnifiable claims (as defined below) may arise due to the service of the Indemnitee as a director and/or officer of the Corporation at the request of the indemnitee-related entities (as defined below), the Corporation shall be fully and primarily responsible for the payment to the Indemnitee in respect of indemnification or advancement of expenses in connection with any such jointly indemnifiable claims, pursuant to and in accordance with the terms of this Article VIII, irrespective of any right of recovery the Indemnitee may have from the indemnitee-related entities. Under no circumstance shall the Corporation be entitled to any right of subrogation against or contribution by the indemnitee-related entities and no right of advancement, indemnification or recovery the Indemnitee may have from the indemnitee-related entities shall reduce or otherwise alter the rights of the Indemnitee or the obligations of the Corporation under this Article VIII. In the event that any of the indemnitee-related entities shall make any payment to the Indemnitee in respect of indemnification or advancement of expenses with respect to any jointly indemnifiable claim, the indemnitee-related entity making such payment shall be subrogated to the extent of such payment to all of the rights of recovery of the Indemnitee against the Corporation, and the Indemnitee shall execute all documents and instruments reasonably required and shall do all things that may be reasonably necessary to secure such rights, including the execution of such documents and instruments as may be necessary to enable the indemnitee-related entities effectively to bring suit to enforce such rights. Each of the indemnitee-related entities shall be third-party beneficiaries with respect to this Section 8.11 and entitled to enforce this Section 8.11.

The term “indemnatee-related entities” means any corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise (other than the Corporation or any other corporation, limited liability company, partnership, joint venture, trust, employee benefit plan or other enterprise for which the Indemnatee has agreed, on behalf of the Corporation or at the Corporation’s request, to serve as a director, officer, employee or agent and which service is covered by the indemnity described herein) from whom an Indemnatee may be entitled to indemnification or advancement of expenses with respect to which, in whole or in part, the Corporation may also have an indemnification or advancement obligation.

The term “jointly indemnifiable claims” shall be broadly construed and shall include, without limitation, any action, suit or proceeding for which the Indemnatee shall be entitled to indemnification or advancement of expenses from both the indemnatee-related entities and the Corporation pursuant to applicable law, any agreement, certificate of incorporation, bylaws, partnership agreement, operating agreement, certificate of formation, certificate of limited partnership or comparable organizational documents of the Corporation or the indemnatee-related entities, as applicable.

## **ARTICLE IX LIMITED LIABILITY OF DIRECTORS**

To the fullest extent permitted by the DGCL, a director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director (it being understood that, without limiting the foregoing, if in the future the DGCL is amended or modified (including with respect to Section 102(b)(7)) to permit the further limitation or elimination of the personal liability of a director of the Corporation to a greater extent than contemplated above, then the provisions of this Article IX shall be deemed to provide for the elimination of the personal liability of the directors of the Corporation to such greater extent). This Article IX shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when this Article IX becomes effective. Any repeal or amendment or modification of this Article IX, or the adoption of any provision of this Amended and Restated Certificate of Incorporation inconsistent with this Article IX, will, to the extent permitted by applicable law, be prospective only (except to the extent such amendment or change in applicable law permits the Corporation to provide a broader limitation on a retroactive basis than permitted prior thereto), and will not adversely affect any limitation on the personal liability of any director of the Corporation at the time of such repeal or amendment or modification or adoption of such inconsistent provision.

## **ARTICLE X SECTION 203 ELECTION**

The Corporation expressly elects not to be governed by Section 203 of the DGCL.

## **ARTICLE XI FORUM**

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (c) any action asserting a claim arising pursuant to any provision of the DGCL, this Certificate of Incorporation or the Bylaws or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, or (d) any action asserting a claim governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XI.

## **ARTICLE XII AMENDMENTS**

The Corporation reserves the right at any time from time to time to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, and any other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted, in the manner now or hereafter prescribed herein or by applicable law. All rights, preferences and privileges of whatsoever nature conferred upon stockholders by and pursuant to this Amended and Restated Certificate of Incorporation in its present form or as hereafter amended are granted subject to the right reserved in this Article XII. Notwithstanding any other provision of this Amended and Restated Certificate of Incorporation or any provision of law which might otherwise permit a lesser vote, but in addition to any vote required by law and any affirmative vote of the holders of any series of Preferred Stock required by law, by this Amended and Restated Certificate of Incorporation or by any Preferred Stock Designation providing for any such Preferred Stock, the affirmative vote of the holders of at least two-thirds of the total voting power of all the shares of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required to amend, alter, change or repeal, or adopt any provision inconsistent with Article VI or this Article XII. Nothing in this Article XII shall limit the authority of the Board of Directors conferred by Section 7.1 hereof.

## **ARTICLE XIII SEVERABILITY**

If any provision or provisions of this Amended and Restated Certificate of Incorporation shall be held to be invalid, illegal or unenforceable as applied to any circumstance for any reason whatsoever, then, to the fullest extent permitted by applicable law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Amended and Restated Certificate of Incorporation (including, without limitation, each portion of any paragraph of this Amended and Restated Certificate of Incorporation containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby.

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AMENDED AND RESTATED BYLAWS  
OF  
GULFMARK OFFSHORE, INC.  
(a Delaware corporation, hereinafter called the “Corporation”)

Effective as of November 14, 2017

ARTICLE I  
OFFICES AND RECORDS

**Section 1.1 Registered Office.** The registered office of the Corporation, and the registered agent of the Corporation at such address, shall be as fixed in the Corporation’s certificate of incorporation (as may be amended and/or restated from time to time, the “Certificate of Incorporation”). The registered office or registered agent of the Corporation may thereafter be changed from time to time by action of the board of directors of the Corporation (the “Board of Directors”).

**Section 1.2 Other Offices.** The Corporation may also have offices at such other places, both within and without the State of Delaware, as the Board of Directors may from time to time determine or the business of the Corporation may require.

**Section 1.3 Books and Records.**

(a) The books and records of the Corporation may be kept outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

(b) The Corporation shall, either at its principal executive office or at such place or places as designated by the Board of Directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these bylaws, as may be amended to date, minute books, accounting books and other records.

(c) Any such records maintained by the Corporation may be kept on, or by means of, or be in the form of, any information storage device or method, provided that the records so kept can be converted into clearly legible paper form within a reasonable time. When records are kept in such manner, a clearly legible paper form produced from or by means of the information storage device or method shall be admissible in evidence, and accepted for all other purposes, to the same extent as an original paper form accurately portrays the record. The Corporation shall so convert any records so kept upon the request of any person or entity entitled to inspect such records pursuant to the provisions of the Certificate of Incorporation, these bylaws or applicable law.

ARTICLE II  
STOCKHOLDERS

**Section 2.1 Place of Meetings.** Meetings of stockholders of the Corporation shall be held at any place, if any, as may be designated from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that a meeting of stockholders of the Corporation shall not be held at any place, but may instead be held solely by means of remote communication. In the absence of notice to the contrary, meetings of the stockholders of the Corporation shall be held at the principal executive office of the Corporation.

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**Section 2.2 Annual Meeting.** The annual meeting of the stockholders of the Corporation shall be held on such date and at such place, if any, and/or by the means of remote communication, and time as may be fixed by resolution of the Board of Directors from time to time. At the annual meeting of the stockholders of the Corporation, directors shall be elected and any other business may be transacted which is properly brought before the annual meeting in accordance with the procedures set forth in Section 2.13 of these bylaws. Failure to hold any annual meeting as aforesaid shall not constitute, be deemed to be or otherwise effect a forfeiture or dissolution of the Corporation nor shall such failure affect otherwise valid corporate acts.

**Section 2.3 Special Meetings.** Special meetings of stockholders of the Corporation may be called at any time and from time to time only upon the written request (stating the purpose or purposes of the meeting) of (a) the Board of Directors, (b) the Chairman of the Board of Directors, or (c) the holders of ten percent or more of the total voting power of all the shares of the Corporation entitled to vote generally in the election of directors. Except as otherwise provided by the Certificate of Incorporation, special meetings of the stockholders of the Corporation may not be called by any person, group or entity other than those specifically enumerated in this Section 2.3. The Board of Directors or the Chairman of the Board of Directors shall determine the date, time, and place, if any, and/or means of remote communication, of any special meeting, which shall be stated in a notice of meeting delivered by the Board of Directors. Advance notice of stockholder nominations for the election of directors and of business to be brought by stockholders before any meeting of the stockholders of the Corporation, or any class or series of thereof, shall be given in the manner provided in these bylaws. No business may be transacted at any special meeting of the stockholders of the Corporation other than the business specified in the notice of such meeting.

**Section 2.4 Chairman of the Meeting; Conduct of Meetings; Inspection of Elections.**

(a) Meetings of stockholders of the Corporation shall be presided over by the chairman of the meeting, who shall be the Chairman of the Board of Directors or, in the absence thereof, such person as the Chairman of the Board of Directors shall appoint, or, in the absence thereof or in the event that the Chairman of the Board of Directors shall fail to make such appointment, any officer of the Corporation appointed by the Board of Directors.

(b) The secretary of any meeting of the stockholders of the Corporation shall be the Secretary or Assistant Secretary, or in the absence thereof, such person as the chairman of the meeting appoints. The secretary of the meeting shall keep the minutes thereof.



(c) The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of stockholders of the Corporation as it shall deem necessary, appropriate or convenient from time to time. Subject to such rules and regulations, if any, the chairman of the meeting shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all acts as, in the judgment of such chairman, are necessary, appropriate or convenient (and not inconsistent with the Certificate of Incorporation or these bylaws) for the proper conduct of the meeting, including, without limitation, establishing an agenda of business of the meeting, recognizing stockholders entitled to speak, calling for the necessary reports, stating questions and putting them to a vote, calling for nominations, announcing the results of voting, establishing rules or regulations to maintain order, imposing restrictions on entry to the meeting after the time fixed for commencement thereof and the fixing of the date and time of the opening and closing of the polls for each matter upon which the stockholders of the Corporation will vote at a meeting (and shall announce such at the meeting).

(d) If required by law, the Board of Directors shall appoint one or more inspectors, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at a meeting of stockholders of the Corporation and make a written report thereof. One or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders of the Corporation, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before discharging his or her duties, shall take an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspectors shall have such other duties as may be prescribed by law.

## **Section 2.5   Notice.**

(a) Whenever stockholders of the Corporation are required or permitted to take any action at a meeting (whether special or annual), written notice (unless oral notice is reasonable under the circumstances) stating the place (if any), date, and time of the meeting, the means of remote communication (if any) by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting) and, in the case of special meetings, the purpose or purposes of such meeting, shall be given to each stockholder of the Corporation entitled to vote at such meeting not fewer than ten (10) nor more than sixty (60) days before the date of the meeting except as otherwise required by law, the Certificate of Incorporation or these bylaws. In the case of an annual meeting, the notice need not state the purpose or purposes of the meeting unless the Certificate of Incorporation or the General Corporation Law of the State of Delaware (as the same exists or may hereafter be amended from time to time, the “DGCL”) requires the purpose or purposes to be stated in the notice of the meeting.

(b) All such notices shall be delivered in writing (unless oral notice is reasonable under the circumstances) or by a form of electronic transmission if receipt thereof has been consented to by the stockholder to whom the notice is given. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, postage prepaid, addressed to the stockholder at such stockholder’s address as it appears on the records of the Corporation. If given by facsimile telecommunication, such notice shall be deemed to be delivered when directed to a number at which the stockholder has consented to receive notice by facsimile. Subject to the limitations of Section 2.6 of these bylaws, if given by electronic transmission, such notice shall be deemed to be delivered: (i) by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (ii) if by a posting on an electronic network together with separate written notice to the stockholder of such specific posting delivered by electronic mail or by United States mail, postage prepaid, addressed to the stockholder at such stockholder’s address as it appears on the records of the Corporation, upon the later of (x) such posting and (y) the giving of such separate notice; and (iii) if by any other form of electronic transmission, when directed to the stockholder. An affidavit of the Secretary or an Assistant Secretary, the transfer agent of the Corporation or any other agent of the Corporation that the notice has been given shall, in the absence of fraud, be *prima facie* evidence of the facts stated therein.

(c) Whenever notice is required to be given under any provisions of the DGCL, the Certificate of Incorporation or these bylaws, a written waiver thereof, signed by the stockholder entitled to notice, or a written waiver by electronic transmission by the person or entity entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Neither the business to be transacted at, nor the purpose of, any meeting of the stockholders of the Corporation need be specified in any waiver of notice of such meeting.

(d) Attendance of a stockholder of the Corporation at a meeting of such stockholders shall constitute a waiver of notice of such meeting, except when the stockholder attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

(e) Whenever notice is required to be given under the DGCL, the Certificate of Incorporation or these bylaws to any stockholder with whom communication is unlawful, the giving of such notice to such stockholder shall not be required, and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such stockholder. Any action or meeting which shall be taken or held without notice to any such stockholder with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. Notwithstanding the other provisions of this Section 2.5, no notice of a meeting of the stockholders of the Corporation need be given to any stockholder if (i) (A) an annual report and proxy statement for two consecutive annual meetings of stockholders or (B) all, and at least two, checks and payment of dividends or interest on securities during a twelve-month period, in either case, have been sent by first-class, United States mail, addressed to the stockholder at his or her address as it appears on the share transfer books of the Corporation, and returned undeliverable and (ii) the Corporation does not have either a current facsimile number or, if such stockholder has consented to electronic delivery pursuant to Section 2.6 of these bylaws, means of electronic transmission for such stockholder. In that event, the obligation of the Corporation to give notice of a stockholders meeting to any such stockholder shall be reinstated once the Corporation has received a new address, facsimile number or means of electronic transmission for such stockholder.

**Section 2.6 Notice by Electronic Delivery.** Without limiting the manner by which notice otherwise may be given effectively to stockholders of the Corporation pursuant to the DGCL, the Certificate of Incorporation or these bylaws, any notice to stockholders of the Corporation given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these bylaws shall be effective if given by a form of electronic transmission consented to by the stockholder of the Corporation to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Secretary. Any such consent shall be deemed revoked if: (i) the Corporation is unable to deliver by electronic transmission two (2) consecutive notices of meetings or of other business given by the Corporation in accordance with such consent; and (ii) such inability becomes known to the Secretary or an Assistant Secretary or to the transfer agent or other person responsible for the giving of notice. However, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. For purposes of these bylaws, except as otherwise limited by applicable law, the term “electronic transmission” means any form of communication not directly involving the physical transmission of paper that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

**Section 2.7 Stockholders List.** The officer having charge of the stock ledger of the Corporation shall make, at least ten (10) days before every meeting of the stockholders of the Corporation, a complete list of the stockholders entitled to vote at such meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten (10) days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, showing the address of (and any form of electronic transmission consented to by) each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder of the Corporation for any purpose germane to the meeting for a period of at least ten (10) days prior to the meeting: (i) on a reasonably accessible electronic network; provided that the information required to gain access to such list is provided with the notice of the meeting; and/or (ii) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof and may be examined by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Refusal or failure to prepare or make available the stockholder list shall not affect the validity of any action taken at a meeting of stockholders of the Corporation.

**Section 2.8 Adjournment and Postponement of Meetings.**

(a) Any meeting of the stockholders of the Corporation may only be adjourned to be reconvened at a specific date, time, place (if any) and/or by means of remote communication (if any) by the chairman of such meeting for a proper purpose not inconsistent with the Certificate of Incorporation or these bylaws (a “Proper Purpose”), which shall include, but is not limited to, prescribing such rules, regulations and procedures and to do all acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, lack of a quorum, securing a more adequate meeting place, electing officials to count and tabulate votes, reviewing any shareholder proposals or passing upon any challenge which may properly come before the meeting. When a meeting of the stockholders of the Corporation is adjourned to another date, time, place (if any), and/or by means of remote communication (if any), notice need not be given of the adjourned meeting if the date, time and place (if any) thereof, and/or the means of remote communication (if any) by which stockholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting, are announced at the meeting at which the adjournment is taken; provided, however, that if the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is fixed for the adjourned meeting, the Board of Directors shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting, and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

(b) Any previously scheduled meeting of the stockholders of the Corporation may only be postponed or cancelled by the chairman of such meeting for a Proper Purpose.

**Section 2.9 Vote Required.** When a quorum is present, the affirmative vote of the majority in voting power of the shares of capital stock of the Corporation present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of the stockholders of the Corporation, unless the question is one upon which, by express provisions of applicable law, the Certificate of Incorporation, these bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or pursuant to any regulation applicable to the Corporation or its securities, or the instrument of designation of any series of preferred stock of the Corporation, a different or additional vote is required or provided for, in which case such express provision shall govern and control the decision of such question. Where a separate vote by class or series is required or provided for, when a quorum is present, the affirmative vote of a majority in voting power of the shares of capital stock of the Corporation of such class or series present in person or represented by proxy at the meeting and entitled to vote on the subject matter shall be the act of such class or series of stockholders, unless the question is one upon which, by express provisions of applicable law, the Certificate of Incorporation, these bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or pursuant to any regulation applicable to the Corporation or its securities, or the designation of any series of preferred stock of the Corporation, a different vote is required or provided for, in which case such express provision shall govern and control the decision of such question.

**Section 2.10 Voting Rights.** Except as otherwise provided by applicable law, each stockholder of the Corporation shall be entitled to that number of votes for each share of capital stock of the Corporation held by such stockholder as set forth in the Certificate of Incorporation or, in the case of preferred stock of the Corporation, in the instrument of designation thereof.

**Section 2.11 Proxies.** Each stockholder entitled to vote at a meeting of stockholders of the Corporation may authorize another person or entity to act for such stockholder by proxy in such manner as prescribed under the DGCL, but no such proxy shall be voted or acted upon after three (3) years from its date unless such proxy expressly provides for a longer period. At each meeting of the stockholders of the Corporation, and before any voting commences, all proxies filed at or before the meeting shall be submitted to and examined by the Secretary or a person designated by the Secretary, and no shares may be represented or voted under a proxy that has been found (in the reasonable determination of the Secretary or such designee) to be invalid or irregular. Reference by the Secretary in the minutes of the meeting to the regularity of a proxy shall be received as *prima facie* evidence of the facts stated for the purpose of establishing the presence of a quorum at such meeting and for all other purposes. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the applicable provisions of the DGCL and, without limiting the foregoing, a duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only so long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the corporation generally.

## **Section 2.12 Record Date.**

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day immediately preceding the day on which notice is given, or, if notice is waived, at the close of business on the day immediately preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not (i) precede the date upon which the resolution fixing the record date is adopted, or (ii) be more than sixty (60) days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

## **Section 2.13 Advance Notice of Stockholder Business.**

(a) Only such business shall be conducted before a meeting of the stockholders of the Corporation as shall have been properly brought before such meeting. To be properly brought before an annual or special meeting of the stockholders of the Corporation, business must be: (i) with respect to any annual meeting, (A) specified in the notice of meeting (or any supplement or amendment thereto) given by or at the direction of the Board of Directors or a duly authorized committee of the Board of Directors; (B) otherwise properly brought before the meeting by or at the direction of the Board of Directors or a duly authorized committee of the Board of Directors; or (C) otherwise properly brought before the meeting by any stockholder (1) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.13 and on the record date for the determination of stockholders entitled to vote at such annual meeting and (2) who complies with the notice procedures set forth in this Section 2.13; and (ii) with respect to any special meeting, specified in the notice of meeting (or any supplement or amendment thereto) given to the stockholders of the Corporation by the Board of Directors pursuant to and in accordance with Section 2.3.

(b) For such business to be considered properly brought before the meeting by a stockholder of the Corporation, such stockholder must, in addition to any other applicable requirements, have given timely notice thereof in proper written form to the Secretary. To be timely with respect to any annual meeting, a stockholder's notice to the Secretary must be delivered to or mailed and received by the Secretary at the principal executive office of the Corporation no fewer than ninety (90) and no more than one hundred twenty (120) days prior to the first (1st) anniversary of the immediately preceding annual meeting of the stockholders of the Corporation; provided, however, that in the event that no annual meeting was held in the previous year or the annual meeting is called for a date that is not within thirty (30) days before or after such anniversary date, notice by the stockholder to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which notice of the date of the annual meeting was mailed or public announcement of the date of the annual meeting was made, whichever occurs first. To be timely with respect to any special meeting, a stockholder's notice to the Secretary must be delivered or mailed and received by the Secretary at the principal executive office of the Corporation not less than sixty (60) days prior to the date of such meeting; provided, however, that in the event that less than seventy (70) days' notice of the date of the meeting is given or made to stockholders, to be timely a stockholder's notice must be delivered or mailed and received by the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth (10th) day following the earlier of the day on which such notice or public announcement of the date of such special meeting is mailed or made (as applicable) by the Corporation. In no event shall the public announcement of an adjournment or postponement of an announced meeting commence a new time period (or extend any time period) for the giving of a stockholders notice as provided in this Section 2.13.

(c) To be in proper written form, a stockholder's notice to the Secretary must set forth as to each matter such stockholder proposes to bring before the annual meeting: (i) a description with reasonable detail of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting; (ii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the proposal is made (A) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (B) the class or series and number of shares of capital stock of the Corporation which are directly or indirectly (including through any derivative arrangement) owned (1) beneficially and (2) of record by such stockholder and by such beneficial owner, (C) a description of all arrangements or understandings between such stockholder or such beneficial owner and any other person or entity (including, without limitation, their names) in connection with the ownership of the capital stock of the Corporation and the proposal of such business by such stockholder and such beneficial owner, and any material interest (financial or otherwise) of such stockholder or such beneficial owner in such business, (D) whether either such stockholder or beneficial owner intends to deliver a form of proxy to holders of at least the percentage of the Corporation's voting shares required under applicable law to approve the proposal and (E) if the Corporation is then subject to Section 14(a) of the Exchange Act, any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filing required to be made in connection with a solicitation of proxies for the proposal pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder; and (iii) a representation that such stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to introduce the business specified in the notice. As used herein, shares "beneficially owned" by a person (and phrases of similar import) shall mean all shares which such person is deemed to beneficially own pursuant to Rules 13d-3 and 13d-5 under the Exchange Act, including, without limitation, shares which are beneficially owned, directly or indirectly, by any other person with which such person has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting or disposing of any shares of the capital stock of the Corporation.

(d) The chairman of a meeting of the stockholders of the Corporation shall determine and declare at such meeting whether the stockholder proposal was made in accordance with the terms of this Section 2.13. If the chairman of the meeting determines that such proposal was not properly brought before the meeting in accordance with the foregoing procedures, the chairman of the meeting shall declare to the meeting that the proposal was not properly brought before the meeting and the business of such proposal shall not be transacted.

(e) This provision shall not prevent the consideration and approval or disapproval at any annual or special meeting of reports of officers, directors and committees of the Board of Directors, but in connection with such reports, no new business shall be acted upon at such meeting unless stated, filed and received as herein provided.

(f) In addition, notwithstanding anything in this Section 2.13 to the contrary, a stockholder of the Corporation intending to nominate one or more persons for election as a director at an annual or special meeting of stockholders must comply with Section 2.14 of these bylaws for such nomination to be properly brought before such meeting.

(g) For purposes of this Section 2.13, any adjournment(s) or postponement(s) of the original meeting whereby the meeting will reconvene within ninety (90) days from the original date shall be deemed for purposes of notice to be a continuation of the original meeting and no business may be brought before any such reconvened meeting unless pursuant to a notice of such business which was timely for the meeting and properly presented as determined as of the date originally scheduled.

(h) For purposes of these bylaws, “public announcement” shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press, PR Newswire or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and the rules and regulations promulgated thereunder.

#### **Section 2.14    Advance Notice of Director Nominations.**

(a) Unless otherwise required by applicable law or the Certificate of Incorporation, only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation, except as may be otherwise provided in the instrument of designation of any series of preferred stock of the Corporation with respect to the right of holders of preferred stock of the Corporation to nominate and elect a specified number of directors of the Corporation, who shall be nominated as provided therein.

(b) Nominations of persons for election to the Board of Directors shall be made only at an annual or special meeting of stockholders of the Corporation called for the purpose of electing directors and must be (i) specified in the notice of meeting (or any supplement or amendment thereto) and (ii) made by (A) the Board of Directors or a duly authorized committee of the Board of Directors (or at the direction thereof) or (B) made by any stockholder of the Corporation (1) who is a stockholder of record on the date of the giving of the notice provided for in this Section 2.14 and on the record date for the determination of stockholders entitled to vote at such meeting and (2) who complies with the notice procedures set forth in this Section 2.14.

(c) In addition to any other applicable requirements, for a nomination to be made by a stockholder of the Corporation, such stockholder must have given timely notice thereof in proper written form to the Secretary. To be timely, a stockholder's notice to the Secretary must be delivered to or mailed and received at the principal executive office of the Corporation: (i) in the case of an annual meeting of the stockholders of the Corporation, no fewer than ninety (90) nor more than one hundred twenty (120) days prior to the first (1st) anniversary of the immediately preceding annual meeting; provided, however, that in the event that no annual meeting was held in the previous year or the annual meeting is called for a date that is not within thirty (30) days before or after such anniversary date, notice by the stockholder to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which notice of the date of the annual meeting was mailed or public announcement of the date of the annual meeting was made, whichever occurs first, and (ii) in the case of a special meeting of stockholders of the Corporation called for the purpose of electing directors, not less than sixty (60) days prior to the meeting; provided, however, that in the event that less than seventy (70) days' notice of the date of the meeting is given or made to stockholders, notice by the stockholder to be timely must be so received not later than the close of business on the tenth (10th) day following the earlier of the day on which such notice or public announcement of the date of the meeting was mailed or made (as applicable). Notwithstanding anything to the contrary in the immediately preceding sentence, in the event that the number of directors to be elected to the Board of Directors is increased, a stockholder's notice required by this Section 2.14 shall also be considered timely, but only with respect to nominees for any new positions created by such increase and only if otherwise timely notice of nomination for all other directorships was delivered by such stockholder in accordance with the requirements of the immediately preceding sentence, if it shall be delivered to the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth (10th) day following the day on which notice to the stockholders of the Corporation was given or public announcement was made by the Corporation naming all of the nominees for director or specifying the size of the increase in the number of directors to serve on the Board of Directors, even if such tenth (10th) day shall be later than the date for which a nomination would otherwise have been required to be delivered to be timely. In no event shall the public announcement of an adjournment or postponement of an announced meeting commence a new time period (or extend any time period) for the giving of a stockholders notice as provided in this Section 2.14.



(d) To be in proper written form, a stockholder's notice to the Secretary pursuant to this Section 2.14 must set forth (i) as to each person whom the stockholder of the Corporation proposes to nominate for election as a director, (A) the name, age, business address, and residence address of such person, (B) the principal occupation or employment of the person, (C) the class or series and number of shares of capital stock of the Corporation which are directly or indirectly (including through any derivative arrangement) owned beneficially or of record by the person, and (D) any other information relating to the person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with a solicitation of proxies for an election of directors pursuant to the Exchange Act and the rules and regulations promulgated thereunder if the Corporation were a reporting company under the Exchange Act, and (ii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the director nomination is made (A) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner; (B) the class or series and number of shares of capital stock of the Corporation which are owned (1) beneficially and (2) of record by such stockholder and by such beneficial owner, (C) a description of all arrangements or understandings between such stockholder or such beneficial owner and any other person or entity (including, without limitation, their names) in connection with the ownership of the capital stock of the Corporation and the nomination of such nominee(s), and any material interest of such stockholder or such beneficial owner in such nomination(s), (D) whether either such stockholder or beneficial owner intends to deliver a form of proxy to holders of the Corporation's voting shares to elect such nominee or nominees, (E) a representation that the stockholder giving the notice is a holder of record of stock of the Corporation entitled to vote at such meeting and that such stockholder intends to appear in person or by proxy at the meeting to nominate the persons named in its notice and (F) if the Corporation is then subject to Section 14(a) of the Exchange Act, any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filing required to be made in connection with a solicitation of proxies for an election of directors pursuant to the Exchange Act and the rules and regulations promulgated thereunder. Such notice must be accompanied by a written consent of each proposed nominee to be named as a nominee and to serve as a director if elected. The Corporation may require any nominee to furnish such other information (which may include meeting to discuss the information) as may reasonably be required by the Corporation to determine the eligibility of such nominee to serve as a director of the Corporation.

(e) If the chairman of a meeting of the stockholders of the Corporation determines that a nomination was not made in accordance with the foregoing procedures, the chairman of the meeting shall declare to the meeting that the nomination was defective and such defective nomination shall be disregarded.

(f) Nothing in this Section 2.14 shall be deemed to affect any rights of the holders of any series of preferred stock of the Corporation to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

### **ARTICLE III DIRECTORS**

**Section 3.1 General Powers.** All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be managed under the direction of, the Board of Directors. In addition to the powers and authority expressly conferred upon it by these bylaws, the Board of Directors shall exercise all such powers of the Corporation and do all such lawful acts and things as are not by law or any other legal agreement among stockholders of the Corporation, by the Certificate of Incorporation, or by these bylaws directed or required to be exercised or done by the stockholders of the Corporation.

**Section 3.2 Number and Election.**

(a) The total number of directors constituting the entire Board of Directors shall be not less than one (1) nor more than fifteen (15). Subject to the limits specified in the immediately preceding sentence, the exact number of directors shall be determined from time to time by the Board of Directors of the Corporation; provided, however, that in no case will a decrease in the number of directors have the effect of removing or shortening the term of any incumbent director.

(b) No more than a minority of the number of directors necessary to constitute a quorum of the Board of Directors (or such other portion thereof as the Board of Directors may determine to be necessary under U.S. Maritime Laws (as defined in the Certificate of Incorporation) in order for the Corporation to continue as a U.S. Citizen (as defined in the Certificate of Incorporation)) shall be Non-U.S. Citizens (as defined in the Certificate of Incorporation).

(c) Except as provided in Section 7.5 of the Certificate of Incorporation, a plurality of the votes cast at any annual meeting of stockholders of the Corporation or any special meeting of the stockholders of the Corporation properly called for the purpose of electing directors shall elect directors of the Corporation. Except as otherwise set forth in the instrument of designation of any class or series of preferred stock of the Corporation, no stockholder of the Corporation shall be entitled to cumulate votes on behalf of any candidate at any election of directors of the Corporation.

(d) All elections of directors of the Corporation shall be by written ballot, unless otherwise provided in the Certificate of Incorporation or authorized by the Board of Directors from time to time. If authorized by the Board of Directors, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission; provided, however, that any such electronic transmission must be either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized.

**Section 3.3 Term of Office.** The term of office of directors shall expire at each annual meeting of stockholders, and in all cases as to each director until his or her successor shall be duly elected and qualified or until his or her earlier resignation, removal from office, death or incapacity.

**Section 3.4 Removal.** Subject to the rights, if any, of the holders of shares of any class or series of preferred stock of the Corporation then outstanding to remove directors as set forth in the instrument of designation of such preferred stock applicable thereto, any director or the entire Board of Directors of the Corporation may be removed from office, with or without cause, upon the affirmative vote of the holders of a majority of the total voting power of all the shares of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

**Section 3.5 Resignation.** Any director may resign at any time upon notice given in writing or by electronic transmission to the Corporation. Any resignation shall take effect at the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

**Section 3.6 Chairman of the Board of Directors.** The Chairman of the Board of Directors shall be chosen from among the directors by a majority vote of the Board of Directors. Any director elected as Chairman in accordance with this Section 3.6 shall hold such office until such director's earlier death, resignation, retirement, disqualification or removal from office or the election of any successor by the Board of Directors from time to time. The Chairman of the Board of Directors shall preside at all meetings of the stockholders of the Corporation and shall have such other powers and perform such other duties (including, without limitation, as applicable, as an officer of the Corporation) as may be prescribed by the Board of Directors or provided in these bylaws. The Chairman of the Board of Directors, any Vice Chairman of the Board of Directors and any other person who chairs a meeting of the Board of Directors or the stockholders shall be a U.S. Citizen.

**Section 3.7 Meetings.** Meetings of the Board of Directors may be held at such dates, times and places (if any) and/or by means of remote communication (if any) as shall be determined from time to time by the Board of Directors or as may be specified in a notice regarding a meeting of the Board of Directors. Special meetings of the Board of Directors may be called by the Chairman of the Board of Directors, the Chief Executive Officer or President of the Corporation, or two or more members of the Board of Directors and shall be called by the President or the Secretary if directed by the Chairman of the Board of Directors, the Chief Executive Officer or President of the Corporation or two or more members of the Board of Directors.

**Section 3.8 Conduct of Meetings.**

(a) Meetings of the Board of Directors shall be presided over by the chairman of the meeting, who shall be the Chairman of the Board of Directors or, in the discretion of the Board of Directors, such director as a majority of the directors present at such meeting shall appoint.

(b) The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of the Board of Directors as it shall deem necessary, appropriate or convenient.

### **Section 3.9    Notice.**

(a) Unless the Certificate of Incorporation provides otherwise, (i) regular meetings of the Board of Directors may be held without notice of the date, time, place or purpose of the meeting at any date, time and place (if any) and/or means of remote communication (if any), as shall from time to time be determined by the Board of Directors, and (ii) unless waived by each of the directors entitled to notice thereof, special meetings of the Board of Directors shall be preceded by at least twenty-four (24) hours' notice of the date, time and place (if any) and/or means of remote communication (if any). Any notice of a special or regular meeting of the Board of Directors shall be given to each director orally (either in person or by telephone), in writing (either by hand delivery, mail, courier or facsimile), or by electronic or other means of remote communication, in each case, directed to each director at that director's address, telephone number, facsimile number or electronic mail address, as the case may be, as shown on the Corporation's records. Any oral notice may be communicated either to the director or to a person at the office of the director who the person giving notice has reason to believe will promptly communicate such notice to the director. If the notice is: (i) delivered personally by hand, by courier, or orally by telephone or otherwise, (ii) sent by facsimile or (iii) sent by electronic mail, it shall be delivered or sent at least twenty-four (24) hours before the time of the holding of the meeting. If the notice is sent by United States mail or courier service, it shall be deposited in the United States mail or with the courier at least three (3) business days before the time of the holding of the meeting.

(b) Whenever notice is required to be given under any provisions of the DGCL, the Certificate of Incorporation or these bylaws, a written waiver thereof, signed by the director entitled to notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting.

(c) Attendance of a director at a meeting of the Board of Directors shall constitute a waiver of notice of such meeting, except when the director attends for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Such director shall be conclusively presumed to have assented to any action taken at any such meeting unless his or her dissent shall be entered in the minutes of the meeting or unless his or her written dissent to such action shall be filed with the person acting as the secretary of the meeting before the adjournment thereof or shall be forwarded by registered mail to the Secretary immediately after the adjournment of the meeting. Such right to dissent shall not apply to any member who voted in favor of such action. Participation by means of remote communication, including, without limitation, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, shall constitute attendance in person at the meeting.

**Section 3.10    Quorum and Adjournment.** A majority of the total number of directors shall constitute a quorum for the transaction of business at all meetings of the Board of Directors, except as otherwise provided by law or by the Certificate of Incorporation or these bylaws. If a quorum is not present, the Chairman of the Board of Directors or a majority of the directors present at the meeting may adjourn the meeting to another date, time and place (if any) and/or means of remote communications (if any). At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called.

**Section 3.11    Vote Required.** Subject to the Certificate of Incorporation, these bylaws, the DGCL and the rights, if any, of those directors who may be elected by the holders of any class or series of preferred stock of the Corporation as set forth in the instrument of designation of such preferred stock, the act by affirmative vote of a majority of the directors present at a meeting of the Board of Directors at which there is a quorum shall be an act of the Board of Directors.

**Section 3.12 Minutes.** The Secretary shall act as secretary of all meetings of the Board of Directors but in the absence of the secretary, the Chairman of the Board of Directors may appoint any other person present to act as secretary of the meeting. The secretary of the meeting shall keep the minutes thereof. Minutes of any regular or special meeting of the Board of Directors shall be prepared and distributed to each director.

**Section 3.13 Board Action by Written Consent without a Meeting.** Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors, or any committee thereof, may be taken without a meeting if all members of the Board of Directors, or such committee, consent thereto in writing or by electronic transmission, and the writing(s) or electronic transmission(s) reasonably describe the action taken and are filed with the minutes of proceedings of the Board of Directors.

**Section 3.14 Committees.**

(a) The Board of Directors may by resolution create one or more committees (and thereafter, by resolution, dissolve any such committee). Each such committee shall consist of one or more of the directors of the Corporation who serve at the pleasure of the Board of Directors. Committee members may be removed, with or without cause, at any time by resolution of the Board of Directors and may resign from a committee at any time upon written notice to the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee to replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

(b) Any such committee, to the extent provided in these bylaws or in a resolution of the Board of Directors establishing such committee, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it, to the extent permitted under applicable law; provided, however, that so long as a Non-U.S. Citizen is the chairman or vice chairman, or otherwise chairs meetings, of the audit committee, the Board of Directors shall only grant the audit committee such powers and authority that are ordinarily granted to audit committees of publicly traded companies, which shall not include all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation. Any duly authorized action and otherwise proper action of a committee of the Board of Directors shall be deemed an action of the Board of Directors for purposes of these bylaws unless the context of these bylaws shall expressly state otherwise.

(c) Each committee of the Board of Directors shall keep minutes of its meetings and shall report its proceedings to the Board of Directors when requested or required by the Board of Directors.

(d) Meetings and actions of committees of the Board of Directors shall be governed by, and held and taken in accordance with, the provisions of Section 3.7, Section 3.8, Section 3.9, Section 3.10, Section 3.11 and Section 3.13 of these bylaws, with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the Board of Directors and its directors and, if there shall be a chairman of the committee, the Chairman of the Board of Directors for the chairman of the committee; provided, however, that: (i) the time of regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee; (ii) special meetings of committees may also be called by resolution of the Board of Directors; and (iii) notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The Board of Directors may adopt other rules for the government of any committee not inconsistent with the provisions of these bylaws. Each committee of the Board of Directors may fix its own rules of procedure not inconsistent with the provisions of these bylaws or the rules of such committee adopted by the Board of Directors and shall hold its meetings as provided by such rules, except as may otherwise be provided by a resolution of the Board of Directors designating such committee or as provided in these bylaws.

(e) No more than a minority of the number of directors necessary to constitute a quorum of any committee of the Board of Directors (or such other portion thereof as the Board of Directors may determine to be necessary under U.S. Maritime Laws in order for the Corporation to continue as a U.S. Citizen) shall be Non-U.S. Citizens. The chairman of any committee of the Board of Directors, any vice chairman of any committee of the Board of Directors and any other person who chairs a meeting of any committee of the Board of Directors shall be a U.S. Citizen. Notwithstanding the foregoing, the requirements in this clause (e) shall not apply to the audit committee of the Board of Directors unless the Board of Directors determines that application thereof is necessary to satisfy the requirements of U.S. Maritime Laws.

**Section 3.15 Compensation.** The Board of Directors, irrespective of any personal interest of any of its members, may establish reasonable compensation of all directors for services to the Corporation as directors, officers, or otherwise, or may delegate such authority to an appropriate committee. Such compensation may be comprised of cash, property, stock, options to acquire stock, or such other assets, benefits or consideration as such directors shall deem, in the exercise of their sole discretion, to be reasonable and appropriate under the circumstances. The Board of Directors also shall have authority to provide for or delegate an authority to an appropriate committee to provide for reasonable pensions, disability or death benefits, and other benefits or payments, to directors, officers, and employees and to their families, dependents, estates, or beneficiaries on account of prior services rendered to the Corporation by such directors, officers, and employees.

## ARTICLE IV OFFICERS

**Section 4.1 Officers.** The officers of the Corporation shall be a Chief Executive Officer, a Chief Financial Officer, one or more Presidents (at the discretion of the Board of Directors), a Treasurer, a Secretary and a Controller. The Corporation may also have, at the discretion of the Board of Directors, one or more Vice Presidents, one or more Assistant Treasurers, one or more Assistant Secretaries, and any such other officers as may be appointed from time to time in accordance with the provisions of these bylaws. In addition, the Chairman of the Board of Directors shall exercise powers and perform such other duties as an officer of the Corporation as may be prescribed by the Board of Directors. Unless the Certificate of Incorporation or these bylaws otherwise provide, any number of offices may be held by the same person; provided that the position of Chairman of the Board of Directors shall not be held by the Chief Executive Officer. In its discretion, the Board of Directors may choose not to fill any office for any period as it may deem advisable, except as required by law. The officers of the Corporation need not be stockholders of the Corporation nor, other than the Chairman of the Board of Directors, directors of the Corporation.

**Section 4.2 Election of Officers.** The Board of Directors shall elect the officers of the Corporation, except such officers as may be elected in accordance with the provisions of Section 4.3 of these bylaws, and subject to the rights, if any, of an officer under any employment contract. Each officer shall hold office until his or her successor is elected and qualified or until his or her earlier death, resignation or removal. A failure to elect officers shall not dissolve or otherwise affect the Corporation. Vacancies may be filled or new offices created and filled by the Board of Directors.

**Section 4.3 Appointment of Subordinate Officers.** The Board of Directors may appoint, or empower the Chief Executive Officer and/or one or more Presidents of the Corporation to appoint, such other officers and agents as the business of the Corporation may require. Each of such officers and agents shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the Board of Directors may from time to time determine.

**Section 4.4 Removal and Resignation.**

(a) Notwithstanding the provisions of any employment agreement, any officer of the Corporation may be removed at any time (i) by the Board of Directors, with or without cause, and (ii) by any other officer of the Corporation upon whom the Board of Directors has expressly conferred the authority to remove another officer, in such case on the terms and subject to the conditions upon which such authority was conferred upon such officer. No elected officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election of his successor, his death, his resignation or his removal from office, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan or as otherwise required by law.

(b) Any officer may resign at any time by giving written or electronic notice to the Corporation. Any resignation shall take effect at the time specified therein or, if the time when it shall become effective is not specified therein, immediately upon receipt. Unless otherwise specified therein, the acceptance of any such resignation shall not be necessary to make it effective.

**Section 4.5 Vacancies.** Any vacancy occurring in any office because of death, resignation, retirement, disqualification, removal from office or otherwise may be filled as provided in Section 4.2 and/or Section 4.3 of these bylaws.

**Section 4.6 Chief Executive Officer.** Subject to the powers of the Board of Directors, the Chief Executive Officer shall be responsible for the general management of the business, affairs and property of the Corporation and control over its officers, agents and employees, and shall see that all orders and resolutions of the Board of Directors are carried into effect. The Chief Executive Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these bylaws. The Chief Executive Officer shall be a U.S. Citizen.

**Section 4.7 Chief Financial Officer.** Subject to the powers of the Board of Directors, the Chief Financial Officer shall have the responsibility for the financial affairs of the Corporation and shall exercise supervisory responsibility for the performance of the duties of the Treasurer and the Controller of the Corporation. The Chief Financial Officer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors or these bylaws.

**Section 4.8 President.** The President(s) of the Corporation, subject to the powers of the Board of Directors and the Chief Executive Officer, shall act in general executive capacity, subject to the supervision and control of the Board of Directors. The President(s) shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer or these bylaws. The President shall be a U.S. Citizen.

**Section 4.9 Vice President.** The Vice President(s) shall have such powers and perform such duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer, the President(s) or these bylaws; provided, however, that no Vice President who is a Non-U.S. Citizen shall be authorized to act in the absence or disability of the Chief Executive Officer or the President.

**Section 4.10 Treasurer.** The Treasurer shall: (i) have the custody of the corporate funds and securities; (ii) keep full and accurate accounts of receipts and disbursements of the Corporation in books belonging to the Corporation; (iii) cause all monies and other valuable effects of the Corporation to be deposited in the name and to the credit of the Corporation in such banks as may be authorized by the Board of Directors; and (iv) cause the funds of the Corporation to be disbursed when such disbursements have been duly authorized, taking proper vouchers for such disbursements. The Treasurer shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer or these bylaws.

**Section 4.11 Secretary.** The Secretary shall attend all meetings of the Board of Directors and of the stockholders and record all votes and the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board of Directors and, when appropriate, shall cause the corporate seal to be affixed to any instruments executed on behalf of the Corporation. The Secretary shall also perform all duties incident to the office of Secretary and such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer, the President(s) or these bylaws.



**Section 4.12 Assistant Treasurers.** The Assistant Treasurer, or if there shall be more than one, the Assistant Treasurers in the order determined by the Board of Directors, shall, in the absence or disability of the Treasurer, perform the duties and functions, exercise the powers and be subject to all of the restrictions of the Treasurer. The Assistant Treasurer(s) shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors, the Chief Financial Officer, the Treasurer or these bylaws.

**Section 4.13 Assistant Secretaries.** The Assistant Secretary, or if there shall be more than one, the Assistant Secretaries in the order determined by the Board of Directors, shall, in the absence or disability of the Secretary, perform the duties and functions, exercise the powers and be subject to all of the restrictions of the Secretary. The Assistant Secretary(ies) shall have such other powers and perform such other duties as may be prescribed by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer, the Secretary or these bylaws.

**Section 4.14 Controller.** The Controller shall keep full and accurate account of receipts and disbursements in the books of the Corporation and render to the Board of Directors, the Chairman of the Board, the President or Chief Financial Officer, whenever requested, an account of all his transactions as Controller and of the financial condition of the Corporation. The Controller shall also perform all duties incident to the office of Controller and such other duties as may be assigned to him by the Board of Directors, the Chairman of the Board, the Chief Financial Officer or these bylaws.

**Section 4.15 Delegation of Duties.** In the absence, disability or refusal of any officer of the Corporation to exercise and perform his or her duties, the Board of Directors may by resolution delegate the powers and duties of such officer to any other officer or to any director, or to any other person whom it may select; provided, however, that no person who is a Non-U.S. Citizen shall be authorized to act in the absence or disability of the Chief Executive Officer or the President.

## **ARTICLE V STOCK**

**Section 5.1 Stock Certificates.** The shares of capital stock of the Corporation shall be represented by certificates; provided, however, that the Board of Directors may provide by resolution that shares of some or all of any or all classes or series of stock of the Corporation shall be uncertificated and shall not be represented by certificates. Any such resolution by the Board of Directors shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Certificates representing shares of capital stock of the Corporation shall be issued in such form as may be approved by the Board of Directors and shall be signed by two authorized officers of the Corporation. The name of the person or entity to whom the shares are issued, with the number of shares and date of issue, shall be entered on the books of the Corporation.

**Section 5.2 Facsimile Signatures.** Any and all of the signatures on a certificate representing shares of the Corporation may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

**Section 5.3 Special Designations of Shares.** If the Corporation is authorized to issue more than one class of stock or more than one series of any class, (a) to the extent the shares are represented by certificates, the powers, designations, preferences, and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise required by law (including, without limitation, Section 202 of the DGCL), in lieu of the foregoing requirements, there may be set forth on the face or back of the certificate that the Corporation shall issue to represent such class or series of stock a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences, and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights; and (b) to the extent the shares are uncertificated, within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation shall send or cause to be sent to the registered owner thereof a written notice containing the information required to be set forth or stated on certificates pursuant to applicable provisions in the DGCL or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences, and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

**Section 5.4 Transfers of Stock.**

(a) Shares of capital stock of the Corporation shall only be transferred on the books of the Corporation by the holder of record thereof or by such holder's attorney or legal representative duly authorized in writing and, if the shares are represented by certificates, upon surrender to the Corporation of the certificate or certificates for such shares endorsed by the appropriate person or persons, with such evidence of the authenticity of such endorsement, transfer, authorization and other matters as the Corporation may reasonably require, and accompanied by all necessary stock transfer stamps. For shares of the Corporation's capital stock represented by certificates, it shall be the duty of the Corporation to issue a new certificate to the person or entity entitled thereto, cancel the old certificate or certificates and record the transaction on its books. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

(b) The Board of Directors shall have power and authority to make such other rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of certificates for shares of capital stock of the Corporation.

(c) The Board of Directors shall have the authority to appoint one or more banks or trust companies organized under the laws of the United States or any state thereof to act as its transfer agent or agents or registrar or registrars, or both, in connection with the transfer or registration of any class or series of securities of the Corporation, and may require stock certificates to be countersigned or registered by one or more of such transfer agents and/or registrars.

(d) The Corporation shall have the authority to enter into and perform any agreement with any number of stockholders of any one or more classes or series of capital stock of the Corporation to restrict the transfer of shares of capital stock of the Corporation of any one or more classes or series owned by such stockholders in any manner permitted by the DGCL.

**Section 5.5 Lost, Stolen or Destroyed Certificates.** The Board of Directors may direct a new certificate or certificates representing one or more shares of capital stock of the Corporation or uncertificated shares to be issued in place of any certificate or certificates previously issued by the Corporation alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person or entity claiming the certificate of stock to be lost, stolen or destroyed or may otherwise require production of such evidence of such loss, theft or destruction as the Board of Directors may in its discretion require. Without limiting the generality of the foregoing, when authorizing such issue of a new certificate or certificates or such uncertificated shares, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or such owner's duly authorized attorney or legal representative, to give the Corporation a bond sufficient to indemnify the Corporation against any claim that may be made against the Corporation on account of the loss, theft or destruction of any such certificate or the issuance of such new certificate.

**Section 5.6 Dividend Record Date.** In order that the Corporation may determine the stockholders of the Corporation entitled to receive payment of any dividend or other distribution or allotment of any rights, or the stockholders entitled to exercise any rights of change, conversion or exchange of stock, or for the purposes of any other lawful action, the Board of Directors may fix a record date, which record date shall be determined in the manner set forth in Section 2.12 of these bylaws.

**Section 5.7 Registered Stockholders.** The Corporation shall be entitled to recognize the exclusive right of a person or entity registered on its books as the owner of shares of capital stock of the Corporation to receive dividends, to vote, to receive notifications and otherwise to exercise all the rights and powers of an owner of such shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person or entity, whether or not it shall have express or other notice thereof, except as otherwise required by law.

## **ARTICLE VI INDEMNIFICATION**

The Corporation shall indemnify any Indemnitee (as defined in the Certificate of Incorporation) as set forth in the Certificate of Incorporation.

## ARTICLE VII GENERAL PROVISIONS

**Section 7.1 Reliance on Books and Records.** Each director of the Corporation, each member of any committee of the Board of Directors and each officer of the Corporation shall, in the performance of his or her duties, be fully protected in relying in good faith upon the books of account or other records of the Corporation and upon such information, opinions, reports or documents presented to the Corporation by any of its officers or employees, or committees of the Board of Directors so designated, or by any other person or entity as to matters which such director or committee member reasonably believes are within such other person's or entity's professional or expert competence and who has been selected with reasonable care by or on behalf of the Corporation.

**Section 7.2 Dividends.** Dividends upon the capital stock of the Corporation, subject to the requirements of the DGCL and the provisions of the Certificate of Incorporation, may be declared by the Board of Directors from time to time at any regular or special meeting of the Board of Directors and may be paid in cash, in property or in shares of the capital stock, or in any combination thereof. Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in its absolute discretion, deems proper as a reserve or reserves to meet contingencies, or for purchasing any of the shares of capital stock, warrants, rights, options, bonds, debentures, notes, scrip or other securities or evidences of indebtedness of the Corporation, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for any other proper purpose. The Board of Directors may modify or abolish any such reserve in the manner in which it was created.

**Section 7.3 Corporate Funds; Checks, Drafts or Orders; Deposits.** The funds of the Corporation shall be kept in such depositories as shall from time to time be prescribed by the Board of Directors. All checks, drafts or other orders for the payment of money by or to the Corporation and all notes and other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer, officers, agent or agents of the Corporation, and in such manner, as shall be determined by resolution of the Board of Directors from time to time. All funds of the Corporation shall be deposited to the credit of the Corporation under such conditions and in such banks, trust companies or other depositories as the Board of Directors may designate or as may be designated by an officer or officers or agent or agents of the Corporation to whom such power may, from time to time, be determined by the Board of Directors.

**Section 7.4 Execution of Contracts and Other Instruments.** The Board of Directors, except as otherwise required by law, may authorize from time to time any officer or agent of the Corporation to enter into any contract or to execute and deliver any other instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances. Unless otherwise specifically determined by the Board of Directors or otherwise required by law, formal contracts, promissory notes and other evidences of indebtedness, deeds of trust, mortgages and corporate instruments or documents requiring the corporate seal, and certificates for shares of stock owned by the Corporation shall be executed, signed or endorsed by any President (or any Vice President) and by the Secretary (or any Assistant Secretary) or the Treasurer (or any Assistant Treasurer). The Board of Directors may, however, authorize any one of these officers to sign any of such instruments, for and on behalf of the Corporation, without necessity of countersignature; may designate officers or employees of the Corporation, other than those named above, who may, in the name of the Corporation, sign such instruments; and may authorize the use of facsimile for any of such persons. No officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for damages, whether monetary or otherwise, for any purpose or for any amount except as specifically authorized in these bylaws or by the Board of Directors or an officer or committee with the power to grant such authority.

**Section 7.5 Signatures.** In addition to the provisions for use of facsimile signatures elsewhere specifically authorized in these bylaws, facsimile or electronic signatures of any director or officer of the Corporation may be used whenever the signature of a director or officer of the Corporation is required, except as otherwise required by law or as directed by the Board of Directors from time to time.

**Section 7.6 Fiscal Year.** The fiscal year of the Corporation shall be the calendar year, except as otherwise changed from time to time by the Board of Directors.

**Section 7.7 Corporate Seal.** The Board of Directors may provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the Corporation, the year of its incorporation and the words "Corporate Seal, Delaware." The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

**Section 7.8 Voting Securities Owned By the Corporation.** Powers of attorney, proxies, waivers of notice of meeting, consents, and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chief Executive Officer, the President, Treasurer or Secretary, any Vice President, Assistant Treasurer or Assistant Secretary, or any other officer of the Corporation authorized to do so by the Board of Directors. Any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation or other entity in which the Corporation may own securities, and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have possessed and exercised if present.

**Section 7.9 Section Headings.** Section headings in these bylaws are for convenience of reference only and shall not be given any substantive effect in limiting or otherwise construing any provision herein.

**Section 7.10 Inconsistent Provisions.** In the event that any provision of these bylaws is or becomes inconsistent with any provision of the Certificate of Incorporation, the DGCL or any other applicable law, the provision of these bylaws shall not be given any effect to the extent of such inconsistency but shall otherwise be given full force and effect.

## **ARTICLE VIII AMENDMENTS**

**Section 8.1 Amendments.** In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized and empowered to amend and repeal these bylaws and adopt new bylaws, subject to the power of the stockholders of the Corporation to adopt, amend or repeal any of these bylaws. Notwithstanding any other provision of these bylaws or any provision of law which might otherwise permit a lesser vote or no vote, but in addition to any affirmative vote of the holders of any series of preferred stock of the Corporation required by law, by the Certificate of Incorporation or by any instrument designating any class or series of preferred stock of the Corporation, the affirmative vote of the holders of a majority of the total voting power of the shares of the Corporation entitled to vote generally in the election of directors, voting together as a single class, shall be required for the stockholders of the Corporation to alter, amend or repeal, or adopt any provision inconsistent with, the provisions of these bylaws.

\* \* \* \*

NUMBER	GULFMARK OFFSHORE, INC.		SHARES
	INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE		SEE REVERSE SIDE FOR CERTAIN DEFINITIONS
			CUSIP 402629 307; CUSIP 402629 406; or CUSIP 402629 505
THIS CERTIFIES THAT			
is the owner of			
FULLY PAID AND NON-ASSESSABLE COMMON SHARES, \$0.01 PAR VALUE, OF			
GULFMARK OFFSHORE, INC.			
transferable on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned and registered by the Transfer Agent and Registrar.			
IN WITNESS WHEREOF, the said Corporation has caused this certificate to be signed by facsimile signatures of its duly authorized officers.			
Dated:		BY	
			
SENIOR VICE PRESIDENT, SECRETARY & GENERAL COUNSEL		EXECUTIVE VICE PRESIDENT & CHIEF FINANCIAL OFFICER	
		AUTHORIZED SIGNATURE	
		COUNTY OF DELAWARE AMERICAN STOCK TRANSFER & TRUST COMPANY Transfer Agent (Incorporated in New York)	

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION UNDER THE SECURITIES ACT OR STATE SECURITIES LAWS OR AN OPINION OF COUNSEL, SATISFACTORY TO THE COMPANY, THAT SUCH REGISTRATION IS NOT REQUIRED.

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE CORPORATION SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH CORPORATION MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

THE SHARES OF THE COMPANY REPRESENTED BY THIS CERTIFICATE AND THE BENEFICIAL OWNERSHIP THEREOF BY NON-U.S. CITIZENS ARE SUBJECT TO THE RESTRICTIONS ON OWNERSHIP AND TRANSFER AND THE OTHER PROVISIONS SET FORTH IN THE COMPANY'S AMENDED AND RESTATED CERTIFICATE OF INCORPORATION, AS IN EFFECT FROM TIME TO TIME (THE "CERTIFICATE OF INCORPORATION"). A copy of the Certificate of Incorporation will be furnished without charge by the Company to the holder hereof upon written request. Capitalized and other terms used but not defined herein have the meanings given to them in the Certificate of Incorporation. The Company owns and operates vessels in the U.S. Coastwise Trade, and applicable U.S. Maritime Laws provide that at least 75% of each class or series of its stock must be beneficially owned by U.S. Citizens. Under the Certificate of Incorporation, the maximum percentage of the total outstanding shares of each class or series of the Company's stock permitted to be beneficially owned by Non-U.S. Citizens is 24%. The Certificate of Incorporation provides that the Company may require reasonable proof from a beneficial owner or the transferee or proposed transferee of shares regarding whether such person is a U.S. Citizen. In addition, the Certificate of Incorporation provides that the Company may redeem the shares held by any beneficial owner that becomes a Non-U.S. Citizen and may not recognize any purported transfer of shares to a Non-U.S. Citizen (except to the extent necessary to effect the remedies available under the Certificate of Incorporation, which include voiding such transfer or redeeming such shares), which in either case would result in Non-U.S. Citizens beneficially owning shares above such 24% limit.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common

TEN ENT - as tenants by entireties

JT TEN - as joint tenants with right of survivorship  
and not as tenants in common

UTMA - \_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)  
under Uniform Transfers to Minors

Act \_\_\_\_\_  
(State)

Additional abbreviations may also be used though not in the above list.

*For value received \_\_\_\_\_ hereby sell, assign, and transfer unto*

PLEASE INSERT SOCIAL SECURITY OR OTHER  
IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE)

*\_\_\_\_\_ Shares  
of the capital stock represented by the within Certificate,  
and do hereby irrevocably constitute and appoint \_\_\_\_\_*

*\_\_\_\_\_ Attorney  
to transfer the said stock on the books of the within-named  
Corporation with full power of substitution in the premises.*

*Dated \_\_\_\_\_*

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

#### SIGNATURE GUARANTEED

ALL GUARANTEES MUST BE MADE BY A FINANCIAL INSTITUTION (SUCH AS A BANK OR BROKER) WHICH IS A PARTICIPANT IN THE SECURITIES TRANSFER AGENTS MEDALLION PROGRAM ("STAMP"), THE NEW YORK STOCK EXCHANGE, INC. MEDALLION SIGNATURE PROGRAM ("MSRP"), OR THE STOCK EXCHANGES MEDALLION PROGRAM ("SEMP") AND MUST NOT BE DATED. GUARANTEES BY A NOTARY PUBLIC ARE NOT ACCEPTABLE.

Form of  
REDEMPTION WARRANT AGREEMENT

Dated as of

[●]

between

GULFMARK OFFSHORE, INC.,

and

[NAME]

as Warrant Agent

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Warrants for  
Common Stock

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REDEMPTION WARRANT AGREEMENT dated as of [●] (this “Agreement”), between GulfMark Offshore, Inc., a Delaware corporation (the “Company”), and [NAME], as warrant agent (the “Warrant Agent”).

Each warrant described herein (a “Warrant”) entitles the registered Warrantholder (as defined below) thereof to acquire one share of Common Stock, subject to the provisions of this Agreement and the relevant Warrant Certificate. Each Warrant Certificate shall evidence such number of Warrants as is set forth therein, subject to adjustment pursuant to the provisions of the Warrant Certificate. The Warrants are the “Redemption Warrants” defined in Section 6.1 of Article VI of the Charter and may be issued by the Company from time to time in connection with the Company’s redemption of shares of the Common Stock as permitted by Section 6.6 of Article VI of the Charter.

The Company desires the Warrant Agent to act on behalf of the Company in connection with the registration, transfer, exchange, redemption, exercise and cancellation of the Warrants as provided herein and the Warrant Agent is willing to so act.

Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Warrantholders:

## ARTICLE I

### DEFINITIONS

#### Section 1.01. Definitions.

“Affiliate” means, with respect to any Person, any Person directly or indirectly controlling, controlled by or under common control with, such other Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”) when used with respect to any Person, means the possession, directly or indirectly, of the power to cause the direction of management and/or policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“Business Day” means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the State of New York.

“Charter” means the Amended and Restated Certificate of Incorporation of the Company as in effect on the date hereof and as may be amended from time to time hereafter in compliance with Section 3.04(d).

“Commission” means the United States Securities and Exchange Commission or any successor governmental agency.

“Common Stock” means the common stock, par value \$0.01 per share, of the Company.

“Excess Shares” has the meaning set forth in the Charter.

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“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time.

“Exercise Price” has the meaning set forth in the form of Warrant Certificate attached as Exhibit A hereto.

“Expiration Date” has the meaning set forth in the form of Warrant Certificate attached as Exhibit A hereto.

“Non-U.S. Citizen” has the meaning set forth in the Charter.

“Officer” means the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, any Assistant Treasurer, the Secretary or any Assistant Secretary of the Company.

“Officers’ Certificate” means a certificate signed by two Officers.

“Opinion of Counsel” means a written opinion reasonably acceptable to the Warrant Agent from legal counsel. Such counsel may be an employee of or counsel to the Company or the Warrant Agent.

“Person” means an individual, firm, corporation, partnership, joint venture, association, joint-stock company, limited liability company, limited liability partnership, trust, unincorporated organization, or government or any agency or political subdivision thereof or any other entity.

“Registry” has the meaning set forth in Section 2.03 hereof.

“Required Warrantholders” means Warrantholders holding Warrants exercisable for a majority of the Shares issuable upon the exercise of all the Warrants then-outstanding.

“Restricted Securities Legend” means the legend labeled as such and that is set forth in Exhibit A hereto, which is incorporated in and expressly made a part of this Agreement.

“Restricted Warrant” means any Warrant that, when issued, was a “restricted security” (as defined under Rule 144 under the Securities Act) until such time as (i) such Warrant has been transferred pursuant to an effective registration statement or (ii) the Restricted Securities Legend therefor has been removed pursuant to Section 2.10.

“Securities Act” means the Securities Act of 1933, as amended from time to time.

“Shares” has the meaning set forth in the form of Warrant Certificate attached as Exhibit A hereto.

“Transfer Agent” has the meaning set forth in the form of Warrant Certificate attached as Exhibit A hereto.

“U.S. Citizen” has the meaning set forth in the Charter.

“U.S. Maritime Laws” has the meaning set forth in the Charter.

“Unrestricted Warrant” means any Warrant, originally issued as a “restricted security” that (i) has been transferred pursuant to an effective registration statement or (ii) has had the Restricted Securities Legend removed pursuant to Section 2.10.

“Warrant Certificate” means any fully registered certificate issued by the Company and authenticated by the Warrant Agent under this Agreement evidencing Warrants, in the form attached as Exhibit A hereto.

“Warrant Share Number” has the meaning set forth in the form of Warrant Certificate attached as Exhibit A hereto.

“Warrantholder” means a registered owner of Warrants as set forth in the Registry.

“Warrantholder Designee” means any Person that a Warrantholder has designated to receive Shares issuable upon exercise of a Warrant.

Section 1.02. Rules of Construction. Unless the text otherwise requires:

- (i) a defined term has the meaning assigned to it herein;
- (ii) an accounting term not otherwise defined has the meaning assigned to it in accordance with U.S. generally accepted accounting principles as in effect from time to time;
- (iii) “or” is not exclusive;
- (iv) “including” means including, without limitation;
- (v) words in the singular include the plural and words in the plural include the singular;
- (vi) references to any statute, rule, standard, regulation or other law include a reference to (x) the corresponding rules and regulations and (y) each of them as amended, modified, supplemented, consolidated, replaced or rewritten from time to time; and
- (vii) headings to Articles and Sections in this Agreement and the table of contents are inserted for convenience of reference only, and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

## ARTICLE II

### WARRANTS

Section 2.01. Form.

(a) Warrants Certificates. Warrants shall be issued in the form of definitive Warrant with a securities legend in substantially the form set forth in Exhibit A hereto, which shall be prepared by the Company from time to time as payment of the Redemption Price for Excess Shares duly redeemed by the Company in accordance with Section 6.6 of Article VI of the Charter, and which shall be duly executed by the Company and countersigned, by either manual or facsimile signature, by the Warrant Agent as hereinafter provided.

(b) [Reserved.]

(c) [Reserved.]

(d) Warrant Certificates. Warrant Certificates shall be in substantially the form attached as Exhibit A hereto and shall be typed, printed, lithographed or engraved or produced by any combination of such methods or produced in any other manner permitted by the rules of any securities exchange on which the Warrants may be listed, all as determined by the Officer or Officers executing such Warrant Certificates, as evidenced by their execution thereof. Any Warrant Certificate shall have such insertions as are appropriate or required or permitted by this Agreement and may have such letters, numbers or other marks of identification and such legends and endorsements, stamped, printed, lithographed or engraved thereon, (i) as the Company (or, with respect to letters, numbers or other marks of identification, the Warrant Agent) may deem appropriate and as are not inconsistent with the provisions of this Agreement, (ii) as may be required to comply with this Agreement, any law or any rule of any securities exchange on which the Warrants may be listed, and (iii) as may be necessary to conform to customary usage, provided that they do not affect the rights, duties, liabilities, responsibilities, obligations or indemnitees of the Warrant Agent.

Section 2.02. Execution and Countersignature.

At least one Officer shall sign each Warrant Certificate for the Company by manual or facsimile signature.

If an Officer whose signature is on a Warrant Certificate no longer holds that office at the time the Warrant Agent countersigns the Warrant Certificate, the Warrants evidenced by such Warrant Certificate shall be valid nevertheless.

Upon receipt of a written order of the Company signed by at least one Officer of the Company (and, with respect to Warrants issued by the Company after the date hereof, all other necessary information and documents, including if requested by the Warrant Agent an Officer's Certificate and an Opinion of Counsel of the Company), the Warrant Agent shall countersign, by either manual or facsimile signature, and deliver Warrant Certificates entitling the Warrantholders thereof to purchase in the aggregate such number of shares of Common Stock as shall be set forth on such Warrant Certificates (subject to adjustment as provided in such Warrant Certificates) in accordance with such order of the Company. Each Warrantholder shall be bound by all of the terms and provisions of this Agreement (a copy of which is available on request to the Secretary of the Company) and any amendments thereto and the Warrant Certificate, in each case, as fully and effectively as if such Warrantholder had signed the same. Each Warrant Certificate shall be dated the date of its countersignature by the Warrant Agent.

At any time and from time to time after the execution of this Agreement, the Warrant Agent shall, upon receipt of a written order of the Company signed by an Officer of the Company, countersign, by either manual or facsimile signature, a Warrant Certificate evidencing the number of Warrants specified in such order. Such order shall specify the number of Warrants to be evidenced on the Warrant Certificate to be countersigned, the date on which such Warrant Certificate is to be countersigned and the number of Warrants then authorized.

The Warrants evidenced by a Warrant Certificate shall not be valid until an authorized signatory of the Warrant Agent countersigns the Warrant Certificate either manually or by facsimile signature. Such signature shall be solely for the purpose of authenticating the Warrant Certificate and shall be conclusive evidence that the Warrant Certificate so countersigned has been duly authenticated and issued under this Agreement.

Section 2.03. Registry.

The Warrants shall be issued in registered form only. The Warrant Agent shall keep a registry (the “Registry”) of the Warrant Certificates and of their transfer and exchange. The Registry shall show the names and addresses of the respective Warrantholders and the date and number of Warrants evidenced on the face of each of the Warrant Certificates.

Except as otherwise provided herein or in the Warrant Certificate, the Company and the Warrant Agent may deem and treat any Person in whose name a Warrant Certificate is registered in the Registry as the absolute owner of such Warrant Certificate for all purposes whatsoever and neither the Company nor the Warrant Agent shall be affected by notice to the contrary; provided, however, that the Warrant Agent may rely conclusively on any written notice provided to it by the Company and signed by an Officer of the Company.

Section 2.04. Transfer and Exchange.

(a) Transfer and Exchange of Warrants.

(i) Registration of the transfer and exchange of Warrants shall be effected by presentation of the physical Warrant Certificate in accordance with this Agreement and the Warrant Certificate and the procedures of the Warrant Agent therefor. A transferor of a Warrant shall surrender the Warrant Certificate to the Warrant Agent and shall deliver to the Warrant Agent an instruction of transfer in form satisfactory to the Warrant Agent which shall be duly executed by the Warrantholder thereof or by his attorney, duly authorized in writing and shall specify in writing the number of Warrants to be transferred and the Person or Persons to whom such Warrants are to be transferred. Additionally, prior to the Warrantholder registering the transfer or making the exchange as requested, the requirements for such transfer or exchange to be issued in a name other than the registered Warrantholder shall be met. Such requirements for a transfer of the Warrant may include, inter alia, a medallion signature guarantee from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association (at a guarantee level acceptable to the Warrant Agent), and any other reasonable evidence of authority that may be required by the Warrant Agent. Upon satisfaction of the conditions in this Clause (i) of Section 2.04(a), the Warrant Agent shall reflect such transfer in the Registry and the surrendered Warrant Certificate shall be cancelled by the Warrant Agent.

(b) Obligations with Respect to Transfers and Exchanges of Warrants.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Warrant Agent shall countersign, by either manual or facsimile signature, Warrant Certificates as required pursuant to the provisions of Section 2.02 and this Section 2.04.

(ii) No service charge shall be made to a Warrantholder for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax, assessments or similar charges payable in connection therewith. The Warrant Agent shall not be obligated to take any action whatsoever with respect to any such registration of transfer or exchange until it is satisfied that all such taxes, assessments or similar charges have been satisfied in full.

(iii) All Warrants issued upon any registration of transfer or exchange pursuant to the terms of this Agreement shall be the valid obligations of the Company, entitled to the same benefits under this Agreement as the Warrants surrendered upon such registration for transfer or exchange.

(iv) No Warrants or shares of Common Stock issuable upon exercise of any Warrant shall be sold, exchanged or otherwise transferred by the Company or any Warrantholder in violation of the Securities Act or state securities laws.

(c) [Reserved.]

Section 2.05. No Obligation to Fiduciary.

Neither the Company nor the Warrant Agent will be liable or responsible for any registration or transfer of any Warrants that are registered or to be registered in the name of a fiduciary or the nominee of a fiduciary.

Section 2.06. Replacement Certificates.

If a mutilated Warrant Certificate is surrendered to the Warrant Agent or if the Warrantholder of a Warrant Certificate provides proof reasonably satisfactory to the Company that the Warrant Certificate has been lost, destroyed or wrongfully taken, the Company shall issue and the Warrant Agent shall countersign, by either manual or facsimile signature, a replacement Warrant Certificate of like tenor and representing an equivalent number of Warrants, if the reasonable requirements of the Warrant Agent and of Section 8-405 of the Uniform Commercial Code as in effect in the State of New York are met. If required by the Warrant Agent or the Company, such Warrantholder shall furnish an indemnity bond sufficient in the reasonable judgment of the Company and the Warrant Agent to protect the Company and the Warrant Agent from any loss that either of them may suffer for a Warrant Certificate replaced for loss, destruction or theft. The Company and the Warrant Agent may charge the Warrantholder for their expenses in replacing a Warrant Certificate. Every replacement Warrant Certificate evidences an additional obligation of the Company.

Section 2.07. Outstanding Warrants.

The Warrants outstanding at any time are all Warrants evidenced on all Warrant Certificates authenticated by the Warrant Agent except for those canceled by it and those delivered to it for cancellation. A Warrant ceases to be outstanding if the Company holds the Warrant.

If a Warrant Certificate has been replaced pursuant to Section 2.06, the Warrants evidenced thereby cease to be outstanding unless the Warrant Agent and the Company receive proof satisfactory to them that the replaced Warrant Certificate is held by a bona fide purchaser.

Section 2.08. Cancellation.

In the event the Company shall purchase or otherwise acquire Warrants, the same shall thereupon be delivered to the Warrant Agent for cancellation.

The Warrant Agent (and no one else) shall cancel and dispose of all Warrant Certificates surrendered for registration of transfer, exchange, replacement, exercise or cancellation in the Warrant Agent's customary manner and, unless the Company directs the Warrant Agent to deliver canceled Warrant Certificates to the Company, deliver a certificate of such disposal to the Company upon the Company's request therefor. The Company may not issue new Warrant Certificates to replace Warrant Certificates to the extent such new Warrants Certificates would evidence Warrants that have been exercised or Warrants that the Company has purchased or otherwise acquired.

Section 2.09. CUSIP Numbers.

The Company in issuing the Warrants may use "CUSIP" numbers (if then generally in use) and, if so, the Warrant Agent, if provided with such "CUSIP" numbers, shall use "CUSIP" numbers in notices as a convenience to Warrantholders; provided, however, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Warrant Certificates or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Warrant Certificates.

Section 2.10. Transfer Restrictions.

(a) By its acceptance of any Warrant bearing the Restricted Securities Legend (or any beneficial interest in such a Warrant), each Warrantholder thereof and each owner of a beneficial interest therein acknowledges the restrictions on transfer of such Warrant (and any such beneficial interest) set forth in this Agreement and in the Restricted Securities Legend and agrees that it will transfer such Warrant (and any such beneficial interest) only in accordance with the Agreement and such legend.

(b) The transfer or exchange of any Warrant (or a beneficial interest therein) may only be made in accordance with this Section 2.10 and the other provisions of Article II and, in the case of a Warrant Certificate (or a beneficial interest therein), the applicable rules and procedures of the Warrant Agent. The Warrant Agent shall refuse to register any requested transfer or exchange that it reasonably believes does not comply with the preceding sentence.

(c) Subject to paragraph (b), the transfer or exchange of any Warrant (or a beneficial interest therein), the Person requesting the transfer or exchange must deliver or cause to be delivered to the Warrant Agent an Opinion of Counsel and such other certifications and evidence as the Company may reasonably require in order to determine that the proposed transfer or exchange is being made in compliance with the Securities Act and any applicable securities laws of any state of the United States.



(d) No certification is required in connection with any transfer or exchange of any Warrant (or a beneficial interest therein) or for transfers of shares of Common Stock issuable upon exercise thereof:

(i) after such Warrant or Share is eligible for resale pursuant to Rule 144 under the Securities Act (or a successor provision) without the need to satisfy current information or other requirements therein; provided that the Company has provided the Warrant Agent with an Officers' Certificate to that effect, and the Company may require from any Person requesting a transfer or exchange in reliance upon this Clause (i) of Section 2.10(e) an opinion of counsel and any other reasonable certifications and evidence in order to support such certificate; or

(ii) sold pursuant to an effective registration statement.

Any Unrestricted Warrant delivered in reliance upon this paragraph will not bear the Restricted Securities Legend.

(e) The provisions of this Section 2.10 shall not apply to the exercise of any Warrant to the extent Shares issued upon such exercise (and any unexercised portion of the Warrant so exercised) shall be issued to the same registered Warrantholder that exercised such Warrant; provided, subject to other documentation requirements, if any such Warrant bears the Restricted Securities Legend but could be exchanged at the time of such exercise for an Unrestricted Warrant, the Shares issued upon exercise need not bear the Restricted Securities Legend.

(f) The Warrant Agent shall retain copies of all certificates, opinions and other documents received in connection with the transfer or exchange of a Warrant (or a beneficial interest therein), for a period of no less than as required by law or the Warrant Agent's customary internal procedures, and during such period the Company has the right to inspect and make copies thereof at any reasonable time upon written notice to the Warrant Agent.

(g) With respect to any Warrants bearing a Restricted Securities Legend on the date of exercise, the shares of Common Stock distributed upon exercise will be issued in physical certificated form (unless, at the option of the Company, such shares can be held directly by the transfer agent in book-entry form in a segregated manner) and shall be treated as "restricted securities," and the Company will affix the applicable "restricted securities" legend upon such shares of Common Stock; provided that if any such Common Stock is being immediately resold pursuant to Rule 144 and appropriate and customary evidence thereof and opinions and certificates have been delivered to the Company, such shares need not be issued with such legend in connection with such sale. Furthermore, in connection with the transfer or exchange of Shares issued upon the exercise of any Warrant, which bears a "restricted securities" legend, the person requesting the transfer or exchange must deliver or cause to be delivered to the Transfer Agent a Transfer Certificate for Transfer of Restricted Common Stock, in the form attached hereto as Exhibit B.

### ARTICLE III

#### EXERCISE TERMS

##### Section 3.01. Exercise.

The Exercise Price of each Warrant, the Warrant Share Number and the number of Warrants evidenced by any Warrant Certificate and the Expiration Date of each Warrant shall be set forth in the related Warrant Certificate. The Warrant Share Number and the Exercise Price of each Warrant are subject to adjustment pursuant to the terms set forth in the Warrant Certificate. The Company shall calculate and transmit to the Warrant Agent, and the Warrant Agent shall have no obligation under this Agreement to calculate, the number of shares of Common Stock or other securities or other consideration to be issued or paid any upon such exercise, and the Warrant Agent shall have no duty or obligation to investigate or confirm whether any such determination made by the Company is accurate or correct.

##### Section 3.02. Manner of Exercise and Issuance of Shares.

Warrants may be exercised in the manner set forth in Section 3 of the Warrant Certificate, and upon any such exercise, Shares shall be issued in the manner set forth in Section 4 of the Warrant Certificate.

##### Section 3.03. Compliance with U.S. Maritime Laws.

Notwithstanding the other provisions of this Warrant Agreement, in order to facilitate the Company's compliance with the U.S. Maritime Laws limiting the ownership of the Common Stock by Non-U.S. Citizens so that it may operate vessels in the coastwise trade of the United States and comply with obligations of the Company under any contracts that it may enter into from time to time with the United States Government:

(a) At the time of exercise or conversion of any Warrant, the Warrantholder or Warrantholder Designee shall advise the Company whether or not it is a U.S. Citizen. In connection with the exercise of any Warrant, the Company may in good faith require the Warrantholder or Warrantholder Designee to provide the Company with such documents and other information as it may reasonably request to confirm that the Warrantholder or Warrantholder Designee is a U.S. Citizen.

(b) Any sale, transfer or other disposition of any Warrant by any Warrantholder that is a Non-U.S. Citizen to a Person who is a U.S. Citizen must be a complete transfer of such Warrantholder's interests in such Warrant and the Shares issuable upon its exercise or conversion to such Person with the transferor retaining no ability to direct or control such Person. The foregoing restriction shall also apply to any Warrantholder Designee or other Person that the Warrantholder has designated to receive the Shares issuable upon exercise or conversion of any Warrant.

(c) If at any time, the Company either ceases to be a reporting company under the Exchange Act, or fails to timely file any amendments to its Charter as required by the Exchange Act, the Company shall provide the Warrant Agent with the then current copy of the Charter or (at the Company's option) an excerpt from the Charter containing the then current version of Article VI ("Compliance with U.S. Maritime Laws") and upon the request of any Warrantholder, the Warrant Agent shall provide such copy or excerpt to such Warrantholder; provided, that, in each case, the Company and/or the Warrant Agent shall be obligated to provide such copy or excerpt only (i) following amendments to such Article and (ii) to the extent such copy or excerpt is not (or will not be) publicly filed or otherwise made available in a format such that Warrantholders can rely on the publicly available copy as the then most current copy or excerpt.

(d) Notwithstanding anything herein to the contrary, in the event the U.S. Maritime Laws are repealed or amended so that the ownership of Common Stock by Non-U.S. Citizens is no longer restricted in any way, the provisions of this Section 3.03 shall no longer apply to any Warrantholder or Warrant.

#### Section 3.04. Covenants.

(a) The Warrant Agent is hereby authorized to requisition from time to time from any stock transfer agents of the Company stock certificates required to honor outstanding Warrants upon exercise thereof in accordance with the terms of this Agreement, and the Company hereby authorizes and directs such transfer agents to comply with all such requests of the Warrant Agent. The Company shall supply such transfer agents with duly executed stock certificates for such purposes and shall provide or otherwise make available any cash or scrip that may be payable upon exercise of Warrants as provided herein and in each Warrant Certificate.

(b) Reserved.

(c) Reserved.

(d) The Company agrees that, for so long as any Warrants are outstanding, it shall not increase the par value of the Common Stock or amend or modify the Charter or its by-laws in a manner that would prevent the Company from issuing the Common Stock issuable upon exercise of the Warrants.

(e) The Company agrees that it will (i) at all times make and keep available adequate current public information with respect to the Company as those terms are understood and defined for purposes of Rule 144(c) under the Securities Act; (ii) so long as a Warrantholder owns any Warrant, furnish to such Warrantholder, upon request, a written statement by the Company as to its compliance with the reporting requirements of Rule 144, the Securities Act and the Exchange Act, a copy of the most recent annual or quarterly report of the Company, and such other reports and documents so filed as such Warrantholder may reasonably request in availing itself of any rule or regulation of the Commission allowing the Warrantholder to sell any such Warrant without registration; and (iii) make available information otherwise necessary to comply with Rule 144 promulgated under the Securities Act, as such rules may be amended from time to time, if available with respect to resales of the Warrants, at all times, to the extent required from time to time to enable such Warrantholders to sell Warrants without registration under the Securities Act within the limitation of the exemptions provided by Rule 144 promulgated under the Securities Act (if available with respect to resales of the Warrants), as such rules may be amended from time to time or replaced. Upon the reasonable request of any Warrantholder, the Company will deliver to such Warrantholder a written statement as to whether it has complied with such information requirements.

## ARTICLE IV

### ANTIDILUTION PROVISIONS

#### Section 4.01. Antidilution Adjustments; Notice of Adjustment.

The Warrant Share Number shall be subject to adjustment from time to time as provided in Section 12 of the Warrant Certificate. Whenever the Warrant Share Number is so adjusted or is proposed to be adjusted as provided in Section 12 of the Warrant Certificate, the Company shall deliver to the Warrant Agent the notices or statements, and shall cause a copy of such notices or statements to be sent or communicated to each Warrantholder pursuant to Section 6.03, as provided in Section 12(F) of the Warrant Certificate. Until such notices or statements are received by the Warrant Agent, the Warrant Agent may presume conclusively for all purposes that no such adjustment has occurred.

#### Section 4.02. Adjustment to Warrant Certificate.

The form of Warrant Certificate need not be changed because of any adjustment made pursuant to the Warrant Certificate, and Warrant Certificates issued after such adjustment may state the same Exercise Price and the same Warrant Share Number as are stated in the Warrant Certificates initially issued pursuant to this Agreement.

The Company, however, may at any time in its sole discretion make any change in the form of Warrant Certificate that it may deem appropriate to give effect to such adjustments and that does not affect the substance of the Warrant Certificate (or affect the rights, duties, responsibilities, obligations, liabilities or indemnitees of the Warrant Agent), and any Warrant Certificate thereafter issued or countersigned, whether in exchange or substitution for an outstanding Warrant Certificate or otherwise, may be in the form as so changed.

## ARTICLE V

### WARRANT AGENT

#### Section 5.01. Appointment of Warrant Agent.

The Company hereby appoints the Warrant Agent to act as agent for the Company in accordance with the express provisions of this Agreement (and no implied terms or conditions) and the Warrant Agent hereby accepts such appointment. The Warrant Agent shall not be liable for anything that it may do or refrain from doing in connection with this Agreement, except in the case of a judicial determination of its own gross negligence or willful misconduct by a court of competent jurisdiction.

Section 5.02. Rights and Duties of Warrant Agent.

(a) Agent for the Company. In acting under this Warrant Agreement and in connection with the Warrant Certificates, the Warrant Agent is acting solely as agent of the Company and does not assume any obligation or relationship of agency or trust for or with any of the holders of Warrant Certificates or beneficial owners of Warrants.

(b) Counsel. The Warrant Agent may consult with counsel of its own selection (who may be counsel to the Company or an employee of the Warrant Agent), and the advice or opinion of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in the absence of bad faith and in accordance with the advice or opinion of such counsel.

(c) Documents. The Warrant Agent shall be fully protected, may conclusively rely upon and shall incur no liability for or in respect of any action taken or thing suffered by it in reliance upon any Warrant Certificate, notice, instruction, direction, consent, certificate, affidavit, statement, request or other paper or document reasonably believed by it to be genuine and to have been presented or signed by the proper parties, and shall have no duty to inquire into or investigate the validity, accuracy or content thereof. The Warrant Agent shall not take any instructions or directions except those given in accordance with this Agreement.

(d) No Implied Obligations. The Warrant Agent shall be obligated to perform only such duties as are specifically set forth herein (or in any modification or amendment hereof to which the Warrant Agent has consented to in writing) and in the Warrant Certificates, and no implied or inferred duties or obligations of the Warrant Agent shall be read into this Agreement (or in any modification or amendment hereof to which the Warrant Agent has consented to in writing) or the Warrant Certificates against the Warrant Agent.

The Warrant Agent shall not be under any obligation to take any action hereunder that it reasonably believes may involve it in any expense or liability for which it does not receive indemnity reasonably satisfactory to it. The Warrant Agent shall not be accountable or under any duty or responsibility for the use by the Company of any of the Warrant Certificates countersigned by the Warrant Agent and delivered by it to the Warrantholders or on behalf of the Warrantholders pursuant to this Agreement or for the application by the Company of the proceeds of the Warrants. The Warrant Agent shall have no duty or responsibility in case of any default by the Company in the performance of its covenants or agreements contained herein or in the Warrant Certificates or in the case of the receipt of any written demand from a Warrantholder with respect to such default, including any duty or responsibility to initiate or attempt to initiate any proceedings at law or otherwise.

The Warrant Agent may execute any of the powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys, and the Warrant Agent will not be answerable or accountable for any act, default, neglect or misconduct of such agents or attorneys or for any loss to the Company resulting from such neglect or misconduct; provided that the Warrant Agent acted without gross negligence, willful misconduct or bad faith in connection with the selection of such agents or attorneys and the Warrant Agent reasonably believed it to be authorized or within the discretion or rights or powers conferred upon the Warrant Agent by this Agreement. Notwithstanding anything in this Agreement to the contrary, in no event shall the Warrant Agent be responsible or liable for special, punitive, incidental, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Warrant Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

(e) Not Responsible for Adjustments or Validity of Stock.

The Warrant Agent shall not at any time be under any duty or responsibility to any Warrantholder to determine whether any facts exist that may require an adjustment of the Warrant Share Number, or with respect to the nature or extent of any adjustment when made, or with respect to the method employed herein or in any supplemental agreement provided to be employed, in making the same. The Warrant Agent shall not be accountable with respect to the validity or value of any Shares or of any securities or property that may at any time be issued or delivered upon the exercise of any Warrant or upon any adjustment pursuant to Section 12 of the Warrant Certificate, and it makes no representation with respect thereto. The Warrant Agent shall not be responsible for any failure of the Company to make any cash payment or to issue, transfer or deliver any Shares or stock certificates upon the surrender of any Warrant Certificate for the purpose of exercise or upon any adjustment pursuant to Section 12 of the Warrant Certificate, or to comply with any of the covenants of the Company contained in the Warrant Certificate.

(f) In the event the Warrant Agent believes any ambiguity or uncertainty exists hereunder or in any notice, instruction, direction, request or other communication, paper or document received by the Warrant Agent hereunder, or is for any reason unsure as to what action to take hereunder, the Warrant Agent shall notify the Company in writing as soon as practicable, and upon delivery of such notice may, in its sole discretion, refrain from taking any action, and shall be fully protected and shall not be liable in any way to the Company or any Warrantholder or other Person for refraining from taking such action, unless the Warrant Agent receives written instructions signed by the Company which eliminates such ambiguity or uncertainty to the reasonable satisfaction of Warrant Agent. Notwithstanding anything in this Agreement to the contrary, the Warrant Agent is authorized and directed hereby to comply with any orders, judgments, or decrees of any court that it believes has jurisdiction over it and will not be liable as a result of its compliance with the same.

(g) Notices to the Company. If the Warrant Agent shall receive any written notice or demand (other than Notice of Exercise of Warrants) addressed to the Company by the Warrantholder of a Warrant, the Warrant Agent shall promptly forward such notice or demand to the Company.

Section 5.03. Individual Rights of Warrant Agent.

The Warrant Agent and any stockholder, director, officer, employee agent or Affiliate of the Warrant Agent may buy, sell or deal in any of the Warrants or other securities of the Company or its Affiliates or become pecuniarily interested in transactions in which the Company or its Affiliates may be interested, or contract with or lend money to the Company or its Affiliates or otherwise act as fully and freely as though it were not the Warrant Agent under this Agreement. Nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other legal entity.

Section 5.04. Warrant Agent's Disclaimer.

The Warrant Agent shall not be responsible for, and makes no representation as to the validity or adequacy of, this Agreement (except the due and valid authorized execution and delivery of this Agreement by the Warrant Agent) or the Warrant Certificates (except the due countersignature of the Warrant Certificate(s) by the Warrant Agent) and it shall not be responsible for any statement in this Agreement or the Warrant Certificates other than its countersignature thereon nor will it be responsible or liable for any breach by the Company of any covenant or condition contained in this Agreement or in any Warrant Certificate; nor will it be responsible or liable for any adjustment required under this Agreement or responsible for the manner, method or amount of any adjustment or the ascertaining of the existence of facts that would require any adjustment; nor will it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any shares of stock or other securities to be issued pursuant to this Agreement or any Warrant Certificate or as to whether any securities will, when issued, be validly authorized and issued, fully paid, nonassessable and free from all preemptive rights, taxes, liens and charges; nor will the Warrant Agent be under any duty or responsibility to insure compliance with any applicable federal or state securities laws in connection with the issuance, transfer or exchange of Warrant Certificates (provided that this clause shall in no way affect the Warrant Agent's express obligations under any other provision of this Agreement).

Section 5.05. Compensation and Indemnity.

(a) The Company agrees to pay the Warrant Agent from time to time reasonable compensation for its services rendered by it hereunder, as agreed, and to reimburse the Warrant Agent upon request for all documented and reasonable out-of-pocket expenses, agent and counsel fees and disbursements, and other disbursements, incurred by the Warrant Agent in connection with the preparation, negotiation, delivery, administration, execution and amendment of this Agreement. The Company shall indemnify and hold harmless the Warrant Agent, its officers, directors, employees, agents and affiliates against any loss, liability, damage, judgment, fine, penalty, settlement, cost or expense (including reasonable attorneys' fees and expenses) incurred by it without gross negligence or willful misconduct on its part for action taken or omitted by the Warrant Agent in connection with the acceptance, administration or performance of this Agreement. The Warrant Agent shall notify the Company promptly of any claim for which it may seek indemnity. The costs and expenses incurred in enforcing this right of indemnification shall be paid by the Company; provided, that Company need not reimburse any expense or indemnify against any loss or liability incurred by the Warrant Agent through the Warrant Agent's gross negligence or willful misconduct. The Company's obligations pursuant to this Section shall survive the termination of this Agreement and the resignation, replacement or removal of the Warrant Agent.

(b) To secure the Company's payment obligations for reasonable compensation of the Warrant Agent's services under this Agreement, the Warrant Agent shall have a lien prior to the Warrantholders on all money or property held or collected by the Warrant Agent.

Section 5.06. Successor Warrant Agent.

(a) Company to Provide and Maintain Warrant Agent. The Company agrees for the benefit of the Warrantholders that there shall at all times be a Warrant Agent hereunder until all the Warrants have been exercised or cancelled or are no longer exercisable.

(b) Resignation and Removal. The Warrant Agent may at any time resign by giving written notice to the Company of such intention on its part, specifying the date on which its desired resignation shall become effective; provided, however, that such date shall not be less than 90 days after the date on which such notice is given unless the Company otherwise agrees. The Warrant Agent hereunder may be removed at any time by the filing with it of an instrument in writing signed by or on behalf of the Company or the Required Warrantholders and specifying such removal and the date when it shall become effective, which date shall not be less than 90 days after such notice is given unless the Warrant Agent otherwise agrees. Any removal under this Section shall take effect upon the appointment by the Company or the Required Warrantholders as hereinafter provided of a successor Warrant Agent (which shall be (i) a nationally recognized stock transfer agent or (ii) a bank or trust company, (x) organized under the laws of the United States of America or one of the states thereof, (y) authorized under the laws of the jurisdiction of its organization to exercise corporate trust or stock transfer powers, (z) having a combined capital and surplus of at least \$50,000,000 (when taking into account all of its direct and indirect parents and subsidiaries) and the acceptance of such appointment by such successor Warrant Agent. The obligations of the Company under Section 5.05 shall continue to the extent set forth herein notwithstanding the resignation or removal of the Warrant Agent.

(c) Company to Appoint Successor. In the event that at any time the Warrant Agent shall resign, or shall be removed, or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or shall commence a voluntary case under the federal bankruptcy laws, as now or hereafter constituted, or under any other applicable federal or state bankruptcy, insolvency or similar law or shall consent to the appointment of or taking possession by a receiver, custodian, liquidator, assignee, trustee, sequestrator (or other similar official) of the Warrant Agent or its property or affairs, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall take corporate action in furtherance of any such action, or a decree or order for relief by a court having jurisdiction in the premises shall have been entered in respect of the Warrant Agent in an involuntary case under the Federal bankruptcy laws, as now or hereafter constituted, or any other applicable Federal or State bankruptcy, insolvency or similar law, or a decree or order by a court having jurisdiction in the premises shall have been entered for the appointment of a receiver, custodian, liquidator, assignee, trustee, sequestrator (or similar official) of the Warrant Agent or of its property or affairs, or any public officer shall take charge or control of the Warrant Agent or of its property or affairs for the purpose of rehabilitation, conservation, winding up or liquidation, a successor Warrant Agent, qualified as aforesaid, shall be appointed by the Company by an instrument in writing, filed with the successor Warrant Agent. In the event that a successor Warrant Agent is not appointed by the Company, a successor Warrant Agent, qualified as aforesaid, may be appointed by the Warrant Agent or the Required Warrantholders or the Warrant Agent or the Required Warrantholders may petition a court to appoint a successor Warrant Agent. Upon the appointment as aforesaid of a successor Warrant Agent and acceptance by the successor Warrant Agent of such appointment, the Warrant Agent shall cease to be Warrant Agent hereunder; provided, however, that in the event of the resignation of the Warrant Agent under this Section 5.06(c), such resignation shall be effective on the earlier of (i) the date specified in the Warrant Agent's notice of resignation and (ii) the appointment and acceptance of a successor Warrant Agent hereunder.



(d) Successor to Expressly Assume Duties. Any successor Warrant Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to the Company an instrument accepting such appointment hereunder, and thereupon such successor Warrant Agent, without any further act, deed or conveyance, shall become vested with all the rights and obligations of such predecessor with like effect as if originally named as Warrant Agent hereunder, and such predecessor, upon payment of its charges and disbursements then unpaid, shall thereupon become obligated to transfer, deliver and pay over, and such successor Warrant Agent shall be entitled to receive, all monies, securities and other property on deposit with or held by such predecessor, as Warrant Agent hereunder.

(e) Successor by Merger. Any entity into which the Warrant Agent hereunder may be merged or consolidated, or any entity resulting from any merger or consolidation to which the Warrant Agent shall be a party, or any entity to which the Warrant Agent shall sell or otherwise transfer all or substantially all of its assets and business, shall be the successor Warrant Agent under this Agreement without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided, however, that it shall be qualified as aforesaid.

Section 5.07. Representations of the Company.

The Company represents and warrants to the Warrant Agent that:

- (a) the Company has been duly organized and is validly existing under the laws of the jurisdiction of its incorporation;
- (b) this Agreement has been duly authorized, executed and delivered by the Company and is enforceable against the Company in accordance with its terms, except as may be limited by bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting the enforcement of creditors' rights generally; and
- (c) the execution and delivery of this Agreement does not, and the issuance of the Warrants in accordance with the terms of this Agreement and the Warrant Certificate will not, (i) violate the Charter or the Company's by-laws, (ii) violate any law or regulation applicable to the Company or order or decree of any court or public authority having jurisdiction over the Company, or (iii) result in a breach of any mortgage, indenture, contract, agreement or undertaking to which the Company is a party or by which it is bound, except in the case of (ii) and (iii) for any violations or breaches that could not reasonably be expected to have a material adverse effect on the Company and its subsidiaries, taken as a whole.

Section 5.08. Further Assurances.

The Company and the Warrant Agent shall perform, acknowledge and deliver or cause to be performed, acknowledged and delivered all such further and other acts, documents, instruments and assurances as may be reasonably required by the other party to this Agreement for the carrying out or performing by such other party of the provisions of this Agreement.

## ARTICLE VI

### MISCELLANEOUS

#### Section 6.01. Persons Benefitting.

Nothing in this Agreement is intended or shall be construed to confer upon any Person other than the Company, the Warrant Agent and the Warrantholders any right, remedy or claim under or by reason of this Agreement or any part hereof.

#### Section 6.02. Amendment.

This Agreement and the Warrants may be amended in writing by the parties hereto without the consent of any Warrantholder for the purpose of (a) curing any ambiguity, or of curing, correcting or supplementing any defective provision contained herein or therein or adding or changing any other provisions with respect to matters or questions arising under this Agreement or the Warrants as the Company and the Warrant Agent may deem necessary or desirable that does not adversely affect the rights of any Warrantholder, or (b) implementing any changes required by the U.S. Coast Guard or the U.S. Maritime Administration in order for the Company to comply with the limitations under the Charter or U.S. Maritime Laws on ownership of Shares by Non-U.S. Citizens.

This Agreement and the Warrants may be amended or supplemented at any time with the written consent of the Required Warrantholders; provided that the consent of each Warrantholder affected thereby shall be required for any amendment pursuant to which (i) the Warrant Share Number would be decreased (in each case, other than pursuant to adjustments provided for in Section 12 of the Warrant Certificate), (ii) the time period during which the Warrants are exercisable would be shortened or (iii) any change adverse to the Warrantholder would be made to (A) the antidilution provisions set forth in Article IV or Section 12 of the Warrant Certificate, (B) the exercise provisions set forth in Article III or Sections 3 or 15 of the Warrant Certificate or (C) the limitation on adverse acts provisions set forth in Section 16 of the Warrant Certificate. The Company or the Warrant Agent may set a record date for any direction, waiver or consent and only the Warrantholders as of such record date shall be entitled to make or give such direction, waiver or consent.

In determining whether the Required Warrantholders have concurred in any direction, waiver or consent, Warrants owned by the Company shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Warrant Agent shall be protected in relying on any such direction, waiver or consent, only Warrants that the Warrant Agent knows are so owned shall be so disregarded. Also, subject to the foregoing, only Warrants outstanding at the time shall be considered in any such determination. The Warrant Agent shall have no duty to determine whether any such amendment would have an effect on the rights or interests of the holders of the Warrants.

Upon receipt by the Warrant Agent of an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the execution of the amendment have been complied with and such execution is permitted by this Agreement and the Warrant Certificate, the Warrant Agent shall join in the execution of such amendment; provided, that the Warrant Agent may, but shall not be obligated to, execute any amendment or supplement that affects the rights, duties, obligations, responsibilities, liabilities or indemnitees of the Warrant Agent.

Section 6.03. Notices.

Any notice or communication required to be given hereunder to the Company or the Warrant Agent shall be in writing and shall be sent by first-class, certified mail (return receipt requested, postage prepaid), by private national courier service, by personal delivery or by facsimile transmission. Such notice or communication shall be deemed given (i) if mailed, two (2) days after the date of mailing, (ii) if sent by national courier service, when sent, (iii) if delivered personally, when so delivered, and (iv) if sent by facsimile transmission, when sent, in each case as follows:

if to the Company:

GulfMark Offshore, Inc.  
842 West Sam Houston Parkway North, Suite 400  
Houston, Texas 77024  
Attn: James M. Mitchell  
Facsimile: (713) 369-7386

if to the Warrant Agent:

[NAME]  
[ADDRESS]  
[ADDRESS]  
Attention: [NAME/TITLE]

with a copy to:

[NAME]  
[ADDRESS]  
[ADDRESS]  
Attention: [NAME/TITLE]

The Company or the Warrant Agent by notice to the other may designate additional or different addresses for subsequent notices or communications.

Notwithstanding anything to the contrary, the Warrant Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, .pdf, facsimile transmission or other similar unsecured electronic methods, provided, however, that the Warrant Agent shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Company elects to give the Warrant Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Warrant Agent in its discretion elects to act upon such instructions, the Warrant Agent's understanding of such instructions shall be deemed controlling. The Warrant Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Warrant Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Warrant Agent, including without limitation the risk of the Warrant Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Any notice or communication mailed to a Warrantholder shall be mailed to the Warrantholder at the Warrantholder's address as it appears on the Registry and shall be sufficiently given if so mailed within the time prescribed. Failure to provide a notice or communication to a Warrantholder or any defect in it shall not affect its sufficiency with respect to other Warrantholders.

If a notice or communication is provided in the manner provided in accordance with this Section 6.03, it is duly given, whether or not the intended recipient actually receives it.

Section 6.04. Governing Law.

**This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State.**

Section 6.05. Successors.

All terms, conditions and obligations of the Company in this Agreement and the Warrants shall bind its successors. All terms, conditions and obligations of the Warrant Agent in this Agreement shall bind its successors.

Section 6.06. Counterparts; Signatures.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same represent the same instrument. Signatures to this Agreement delivered by facsimile, .pdf or other electronic means shall be deemed to be originals for all purposes hereunder. One signed copy shall be sufficient to prove this Agreement.

Section 6.07. Inspection of Agreement.

A copy of this Agreement shall be made available at all reasonable times for inspection by any registered Warrantholder at the office of the Warrant Agent (or successor warrant agent) designated for such purpose.

Section 6.08. Severability.

The provisions of this Agreement are severable, and if any clause or provision shall be held invalid, illegal or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect in that jurisdiction only such clause or provision, or part thereof, and shall not in any manner affect such clause or provision in any other jurisdiction or any other clause or provision of this Agreement in any jurisdiction; provided, that if any such excluded clause or provision shall adversely affect the rights, immunities, duties or obligations of the Warrant Agent, the Warrant Agent shall be entitled to resign upon five (5) Business Days' written notice.

Section 6.09. Waiver of Jury Trial.

**Each of the Company and the Warrant Agent hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement, the Warrants or the transactions contemplated hereby.**

Section 6.10. Customer Identification Program.

Each Person that is a party hereto acknowledges that the Warrant Agent is subject to the customer identification program (“Customer Identification Program”) requirements under the USA PATRIOT Act and its implementing regulations, and that the Warrant Agent must obtain, verify and record information that allows the Warrant Agent to identify each such Person. Accordingly, prior to accepting an appointment hereunder, the Warrant Agent may request information from any such Person that will help the Warrant Agent to identify such Person, including without limitation, as applicable, such Person’s physical address, tax identification number, organizational documents, certificate of good standing or license to do business. Each person or entity that is a party hereto agrees that the Warrant Agent cannot accept an appointment hereunder unless and until the Warrant Agent verifies each such Person’s identity in accordance with the Customer Identification Program requirements.

Section 6.11. Force Majeure.

In no event shall the Warrant Agent be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Warrant Agent shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 6.12. Termination.

This Agreement shall terminate on the Expiration Date. Notwithstanding the foregoing, this Agreement will terminate on any earlier date when all Warrants have been exercised or cancelled. The provisions of Sections 5.02, 5.03, 5.04, 5.05 and this Article VI shall survive such termination and the resignation or removal of the Warrant Agent.

IN WITNESS WHEREOF, the parties have caused this Redemption Warrant Agreement to be duly executed as of the date first written above.

GULFMARK OFFSHORE, INC.

By: \_\_\_\_\_  
Name:  
Title:

[NAME]

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT A**  
**FORM OF WARRANT**

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## FORM OF NEW WARRANT

Transfers of this Warrant shall be limited to transfers made in accordance with the restrictions set forth in the Redemption Warrant Agreement referred to on the reverse hereof.

**[THE SECURITIES REPRESENTED BY THIS CERTIFICATE, WERE ORIGINALLY ISSUED ON [DATE OF ISSUANCE], AND SUCH SECURITIES AND THE SHARES ISSUABLE UPON CONVERSION OF THE WARRANTS EVIDENCED HEREBY, HAVE NOT BEEN REGISTERED UNDER THE ACT, OR ANY OTHER APPLICABLE STATE SECURITIES LAWS, AND (IF SUCH SHARES ARE ISSUED UPON THE EXERCISE OF ANY SUCH WARRANTS THAT THEN ARE “RESTRICTED SECURITIES” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “ACT”)) MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR AN AVAILABLE EXEMPTION FROM REGISTRATION THEREUNDER.]<sup>1</sup>**

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<sup>1</sup> Legend will appear on the face of Restricted Warrants.

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## WARRANTS

to purchase

Shares of Common Stock

of

GULFMARK OFFSHORE, INC.

No. [●]

CUSIP No: [●]

This Warrant Certificate is issued under and in accordance with a Redemption Warrant Agreement dated as of [●] (the “Warrant Agreement”), between GulfMark Offshore, Inc. (the “Company”) and [NAME], as warrant agent (the “Warrant Agent”), and is subject to the terms and provisions contained in the Warrant Agreement, to all of which terms and provisions the beneficial owners of the Warrants and the Warrantholders consent by acceptance hereof. This Warrant Certificate expires on [●],<sup>2</sup> as set forth herein and subject to the terms hereof.

1. Definitions. Unless the context otherwise requires, when used herein the following terms shall have the meanings indicated. Any capitalized terms used but not defined in this Warrant Certificate shall have the meanings given to such terms in the Warrant Agreement.

“Automatic Conversion Date” has the meaning set forth in Section 3(D).

“Board of Directors” means the board of directors of the Company, including any duly authorized committee thereof.

“Business Day” means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the State of New York.

“Capital Stock” means (a) with respect to any Person that is a corporation or company, any and all shares, interests, participations or other equivalents (however designated) of capital or capital stock of such Person and (b) with respect to any Person that is not a corporation or company, any and all partnership or other equity interests of such Person.

“Charter” means the Amended & Restated Certificate of Incorporation of the Company as in effect on the date hereof and as may be amended from time to time hereafter in compliance with Section 3.04(d) of the Warrant Agreement.

“Common Stock” means the common stock, par value \$0.01 per share, of the Company.

“Common Stock Equivalent” means any security or obligation which by its terms is, directly or indirectly, convertible into, or exchangeable or exercisable for, shares of Common Stock, including, without limitation, any preferred stock and any option, warrant or other subscription or purchase right with respect to Common Stock or any Common Stock Equivalent.

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<sup>2</sup> Insert the earlier of (i) the date that is 25 years after the date of issuance of the Warrants that are the subject of the Warrant Certificate and (ii) November 14, 2067.

“Current Market Price” means, as of any date, (a) the average of the daily Market Prices of the Common Stock during the immediately preceding 20 consecutive trading days ending on such date or (b) if the Common Stock is not then listed or admitted to trading on any national securities exchange, the Market Price.

“Excess Shares” has the meaning set forth in the Charter.

“Excluded Transaction” means any of the following:

(a) (i) the issuance of rights pursuant to any bona fide stockholder rights plan or tax asset protection plan (i.e., a poison pill) adopted by the Company from time to time (“Rights”); (ii) the distribution of separate certificates representing Rights; (iii) the exercise or redemption of Rights; or (iv) the termination or invalidation of Rights; provided, that to the extent that the Company has a bona fide stockholder rights plan or tax asset protection plan in effect on an Exercise Date, the Warrantholder shall receive upon exercise of this Warrant, in addition to the Shares issuable upon such exercise, the Rights relating to such Shares under such rights plan, unless, prior to such Exercise Date, the Rights have separated from the Common Stock, in which case the applicable Warrant Share Number will be adjusted at the time of separation as if the Company made a distribution to all holders of Common Stock as described in Section 12(B) including, for the purposes of this adjustment only, shares of Common Stock and assets issuable upon exercise of Rights under a bona fide stockholder rights plan or tax asset protection plan, subject to readjustment in the event of the expiration, termination or redemption of the Rights; and

(b) any issuance of any shares of Common Stock or Common Stock Equivalents (i) pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company’s securities and the investment of additional optional amounts in shares of Common Stock under any such plan, (ii) pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Company or any of its subsidiaries, (iii) pursuant to any option, warrant, right or other security exercisable for, or exchangeable or convertible into, Common Stock that (A) was outstanding as of the date of the Warrant Agreement, or (B) is issued in a transaction for which appropriate adjustments to the Warrant Share Number have previously been made pursuant to Section 12 hereunder, or (iv) in order to redeem Common Stock (or issued pursuant to Common Stock Equivalents that are issued to redeem such Common Stock) that constitute Excess Shares under the Charter as amended from time to time.

“Exercise Date” means any date that a Warrantholder exercises all or a portion of the Warrants evidenced by this Warrant Certificate.

“Exercise Price” means \$0.01 per Share deliverable upon exercise of any Warrant.

“Existing Equity Warrants” means warrants issued pursuant to the Warrant Agreement, dated as of November 14, 2017, between the Company and American Stock Transfer & Trust LLC, as Warrant Agent, with an initial exercise price of \$100.00 per share.

“Expiration Date” means November 14, 2067.

“Fair Market Value” means, with respect to any security or other property, the fair market value of such security or other property as determined in good faith by the Board of Directors in reliance on an opinion of a nationally recognized independent investment banking corporation retained by the Company for this purpose.

“Market Price” means, with respect to a particular security on any given day, (a) the per-share volume weighted average price of such security, as reported by Bloomberg through its “Volume at Price” function, (b) if such security is not listed or admitted to trading on any national securities exchange, the average of the closing bid and ask prices on such day as furnished by two members of the Financial Industry Regulatory Authority, Inc. selected from time to time by the Company for such purpose, or (c) if the foregoing clauses (a) and (b) do not apply, the average market value of one share of such security on such day, determined, using a volume weighted average method, by a nationally recognized independent investment banking firm selected in good faith by the Board of Directors, the fees and expenses of which shall be paid by the Company. “Market Price” shall be determined without reference to after hours or extended hours trading. If such security is not listed and traded in a manner that the quotations referred to above are available for the period required hereunder, the Market Price per share of a particular security shall be deemed to be the Fair Market Value per share of such security. For the purposes of determining the Market Price of any security on the “trading day” preceding, on or following the occurrence of an event, (x) that trading day shall be deemed to commence immediately after the regular scheduled closing time of trading on the primary national securities exchange on which the relevant security is then listed or traded or, if trading is closed at an earlier time, such earlier time (or, if the relevant securities is not then listed or traded on a national securities exchange, on the New York Stock Exchange) and (y) that trading day shall end at the next regular scheduled closing time on such exchange, or if trading is closed at an earlier time, such earlier time (for the avoidance of doubt, and as an example, if the Market Price is to be determined as of the last trading day preceding a specified event and the closing time of trading on a particular day is 4:00 p.m. and the specified event occurs at 5:00 p.m. on that day, the Market Price would be determined by reference to such 4:00 p.m. closing price).

“New Noteholder Warrants” means warrants issued pursuant to the Warrant Agreement, dated as of November 14, 2017, between the Company and American Stock Transfer & Trust LLC, as Warrant Agent, with an initial exercise price of \$0.01 per share.

“Non-U.S. Citizen” has the meaning set forth in the Charter.

“Notice of Exercise” means a notice delivered by a Warrantholder to the Warrant Agent in connection with such Warrantholder’s exercise of Warrant, in the form attached hereto as Annex A.

“Pro Rata Repurchase Offer” means any offer to purchase shares of Common Stock by the Company or any Affiliate thereof pursuant to (a) any tender offer or exchange offer subject to Section 13(e) or 14(e) of the Exchange Act or Regulation 14E promulgated thereunder or (b) any other offer available to substantially all holders of Common Stock to purchase or exchange their shares of Common Stock, in the case of both (a) or (b), whether for cash, shares of capital stock of the Company, other securities of the Company, evidences of indebtedness of the Company or any other Person, or any other property (including, without limitation, shares of capital stock, other securities or evidences of indebtedness of a Subsidiary), or any combination thereof, effected while the Warrants are outstanding. The “effective date” of a Pro Rata Repurchase Offer shall mean the date of acceptance of shares for purchase or exchange by the Company under any tender or exchange offer which is a Pro Rata Repurchase Offer or the date of purchase with respect to any Pro Rata Repurchase Offer that is not a tender or exchange offer.

“Rights” has the meaning set forth in the definition of Excluded Transaction.

“Share” or “Shares” has the meaning set forth in Section 2.

“Significant Transaction” means:

(a) any reorganization, reclassification or other change of outstanding shares of Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value);

(b) any voluntary sale, conveyance, exchange or transfer by the Company to any other Person of all or substantially all of the assets of the Company;

(c) any voluntary sale, conveyance, exchange or transfer by the Company and/or the stockholders of the Company to any Person of the Capital Stock of the Company if, immediately after giving effect to such sale, conveyance, exchange or transfer, the stockholders of the Company immediately prior to such sale, conveyance, exchange or transfer do not hold Capital Stock of the Company representing at least a majority of the voting power of the Company; and

(d) any merger, consolidation or other business combination of the Company with any other Person (including by way of a tender offer) if, immediately after giving effect to such merger, consolidation or other business combination, the stockholders of the Company immediately prior to such merger, consolidation or other business combination do not hold Capital Stock of the surviving Person representing at least a majority of the voting power of the surviving Person.

“trading day” means (a) if the shares of Common Stock are not traded on any national or regional securities exchange or association or over-the-counter market, a Business Day or (b) if the shares of Common Stock are traded on any national or regional securities exchange or association or over-the-counter market, a Business Day on which such relevant exchange or quotation system is scheduled to be open for business and on which the shares of Common Stock (i) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market for any period or periods aggregating one half hour or longer; and (ii) have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the shares of Common Stock. The term “trading day” with respect to any security other than the Common Stock shall have a correlative meaning based on the primary exchange or quotation system on which such security is listed or traded.

“Transfer Agent” means [NAME], as transfer agent of the Company, and any successor transfer agent.

“U.S. Citizen” has the meaning set forth in the Charter.

“U.S. Maritime Laws” has the meaning set forth in the Charter.

“Warrant” means a right to purchase a number of shares of Common Stock equal to the Warrant Share Number, subject to the terms of this Warrant Certificate and the Warrant Agreement.

“Warrant Certificate” means this Warrant Certificate.

“Warrant Share Number” means one Share, as such amount may be subsequently adjusted pursuant to the terms of this Warrant Certificate and the Warrant Agreement.

“Warrantholder” means a registered owner of Warrants as set forth in the Registry.

“Warrantholder Designee” means any Person that a Warrantholder has designated to receive Shares issuable upon exercise of a Warrant.

2. Number of Shares; Exercise Price. This certifies that, for value received, [●], and any of its registered assigns, is the registered owner of the number of Warrants set forth on Schedule A hereto, each of which entitles the Warrantholder to purchase from the Company, upon the terms and subject to the conditions hereinafter set forth, a number of fully paid and nonassessable shares of the Company’s Common Stock (each a “Share” and collectively the “Shares”) equal to the Warrant Share Number at a purchase price per share equal to the Exercise Price. The Warrant Share Number is subject to adjustment as provided herein, and all references to “Warrant Share Number” herein shall be deemed to include any such adjustment or series of adjustments.

3. Exercise of Warrant; Term; Exchange. Subject to Sections 2 and 21 and pursuant to the provisions in Article VI (Compliance with U.S. Maritime Laws) of the Company’s Charter, and the policies adopted by the Board of Directors as provided therein:

(A) Subject to the Warrant exercise restrictions on Non-U.S. Citizen Warrantholders contained in Section 3(B), any Warrantholder may exercise all or a portion of the Warrants evidenced by this Warrant Certificate at any time or from time to time on any Business Day after the execution and delivery of this Warrant Certificate by the Company on the date hereof, but in no event later than 5:00 p.m., New York City time, on the Expiration Date, unless the Company determines, in its sole discretion, that at the time of conversion of the Warrant that the Shares deliverable upon exercise of the Warrant would constitute Excess Shares. (For the avoidance of doubt, Warrantholders that have been determined by the Company to be U.S. Citizens are not subject to the restrictions on exercise or conversion of Warrants by Non-U.S. Citizens set forth in Sections 3 (B) and 3(D) and may exercise their Warrants in accordance with Section 3(N).) Whenever some but not all of the Warrants represented by such Warrant Certificate are exercised in accordance with the terms thereof and of the Warrant Agreement, the Warrantholder shall be entitled, at the request of such Warrantholder, to receive from the Company within a reasonable time, not to exceed ten (10) Business Days, a new Warrant Certificate in substantially identical form for the number of Warrants equal to the number of Warrants theretofore represented by such Warrant Certificate less the number of Warrants then-exercised.

(B) In the case where any Warrantholder or its Warrantholder Designee is a Non-U.S. Citizen or cannot establish to the Company's reasonable satisfaction that it is a U.S. Citizen, such Warrantholder may not exercise or convert any Warrant it has requested to exercise or convert (i) for so long as (x) any New Noteholder Warrants are outstanding and are not the subject of a request by the holder thereof to delay conversion and (y) any Existing Equity Warrants are the subject of an outstanding exercise notice submitted by a Non-U.S. Citizen and (ii) thereafter only through the automatic conversion procedure set forth in Section 3(D) below.

(C) In order to facilitate the Company's compliance with the U.S. Maritime Laws limiting the ownership of the Common Stock by Non-U.S. Citizens so that the Company may operate vessels in the coastwise trade of the United States and comply with obligations of the Company under any contracts that it may enter into from time to time with the United States Government, at the time of exercise or conversion of any Warrant, the Warrantholder or Warrantholder Designee shall advise the Company whether or not it is a U.S. Citizen. In connection with the exercise of any Warrant, the Company may in good faith require the Warrantholder or Warrantholder Designee to provide the Company with such documents and other information as it may reasonably request to confirm that the Warrantholder or Warrantholder Designee is a U.S. Citizen.

(D) Subject to Section 3(B)(i) hereof, beginning with the end of the first full calendar quarter following the execution and delivery of this Warrant by the Company and, for so long as this Warrant is outstanding, the Company shall determine, in its sole discretion, at least quarterly whether on each February 28, May 31, August 31 and November 30 thereafter (each an "Automatic Conversion Date"), the Shares deliverable upon exercise of the then outstanding Warrants held by Non-U.S. Citizens would constitute Excess Shares if they were issued. If any Automatic Conversion Date falls on any day that is not a Business Day, then the next Business Day shall be used and such Business Day shall constitute the Automatic Conversion Date for the applicable quarter. If the Company has so determined that a certain number of Shares deliverable upon exercise of the then outstanding Warrants held by Non-U.S. Citizens would not constitute Excess Shares on the applicable Automatic Conversion Date, this Warrant shall automatically be deemed to be exercised in full, without delivery of the Notice of Exercise or any action by the Warrantholder, to the extent that (i) the Warrantholder has not delivered prior written notice to the Company opting out of such exercise, in full or in part, and (ii) such exercise will not, as determined by the Company, result in Excess Shares after giving effect to such conversion. The Company shall effect the automatic conversion of (and the Warrantholder shall be deemed to have elected to convert) such amount of outstanding Warrants held by Non-U.S. Citizens (without any action by any such Non-U.S. Citizen) into the total number of Shares that the Company has so determined may be issued on the applicable Automatic Conversion Date without causing Excess Shares to be issued. Payment of the Exercise Price for the Shares thereby purchased shall be made by having the Company withhold (and the Warrantholder shall be deemed to have so requested), from the number of Shares of Common Stock that would otherwise be delivered to such Warrantholder upon such exercise, the number of Shares equal in value to the aggregate Exercise Price as to all Shares the Company would otherwise be obligated to deliver, based on the closing Market Price of the Common Stock on the trading day preceding the day the Warrant will be converted to Shares by the Company pursuant to this Section 3(D). Warrants held by Non-U.S. Citizens shall be selected for conversion on a first in, first out basis and on a pro rata basis among Warrants with the same issue date, as determined by the Company, in its sole discretion, to be calculated based solely on the number of outstanding Warrants at the time of such conversion less (i) any Warrants whose conversion would result in Excess Shares and (ii) any Warrants for which a written notice has been duly delivered opting out of such conversion. Following a conversion pursuant to this Section 3(D) and upon the delivery of the Shares of Common Stock, the number of Shares issuable pursuant to Warrants held by each Warrantholder shall be reduced automatically by the number of Shares of Common Stock actually issued to each such Warrantholder pursuant to such conversion; and, for the avoidance of doubt, any such Warrants so converted into Shares shall no longer be deemed outstanding.

(E) In the event of any automatic conversion pursuant to Section 3(D) or Section 3(L), the Company shall as promptly as practicable cause to be filed with the Warrant Agent and mailed to each Warrantholder subject to such conversion, a notice specifying: (i) the date of such conversion; (ii) the number of such Warrantholder's Warrants converted and the number of Shares of Common Stock to be issued to such Warrantholder in respect of such Warrants; and (iii) the place or places where any Warrant Certificates for such Warrants are to be surrendered and any other applicable procedures required by the Warrant Agent to effect such conversion.

(F) At any time after the execution and delivery of the Warrant Agreement, a Warrantholder shall have the right to notify the Company, in accordance with Section 6.03 thereof, that such Warrantholder opts out of the automatic conversion under Section 3(D) hereof for its Warrants. After the Company's receipt of such notice, all of such Warrantholder's Warrants shall be excluded from any automatic conversion under Section 3(D) unless and until the Company receives a new notice from such Warrantholder, given in accordance with Section 6.03 of the Warrant Agreement, that such Warrants are no longer to be so excluded.

(G) On the Expiration Date, prior to the termination of the Warrant Agreement and this Warrant, this Warrant shall be deemed to be exercised in full by the Warrantholder (without delivery of the Notice of Exercise or any action by the Warrantholder) to the extent that the Shares deliverable upon and at the time of such exercise will not, as determined by the Company, constitute Excess Shares upon issuance. Warrants held by Non-U.S. Citizens shall be selected for conversion into Shares on a first in, first out basis and on a pro rata basis among Warrants with the same issue date, as determined by the Company, in its sole discretion, to be calculated based solely on the number of outstanding Warrants at the time of such conversion.

(H) Notwithstanding anything in this Warrant Certificate or the Warrant Agreement to the contrary, all Shares of Common Stock issued pursuant to exercise and conversion of Warrants under Section 3(A) hereof or automatic conversion of Warrants under Section 3(D) hereof shall in all events be subject to all of the restrictions and remedies set forth in Article VI ("Compliance with U.S. Maritime Laws") of the Charter, including, without limitation, in the event that Excess Shares are in fact issued upon the conversion of Warrants pursuant to Sections 3(A) or (D) hereof, regardless of any determinations made by the Company under this Section 3.



(I) [Reserved.]

(J) [Reserved.]

(K) If at any time the Company either ceases to be a reporting company under the Exchange Act, or fails to timely file any amendments to its Charter as required by the Exchange Act, the Company shall provide the Warrant Agent with the then current copy of the Charter or (at the Company's option) an excerpt from the Charter containing then current version of the article entitled "Compliance with U.S. Maritime Laws" and upon the request of any Warrantholder the Warrant Agent shall provide such copy or excerpt to such Warrantholder; provided, that, in each case, the Company and/or the Warrant Agent shall be obligated to provide such copy or excerpt only (i) following amendments to such article and (ii) to the extent such copy or excerpt is not (or will not be) publicly filed or otherwise made available in a format such that Warrantholders can rely on the publicly available copy as the then most current copy or excerpt.

(L) Notwithstanding anything herein to the contrary, in the event the U.S. Maritime Laws are repealed or amended so that the ownership of the Common Stock by Non-U.S. Citizens is no longer restricted in any way, the provisions of this Section 3 shall no longer apply to any Warrantholder or Warrant, and this Warrant shall automatically be deemed to be exercised in full, without delivery of the Notice of Exercise or any action by the Warrantholder. Following a conversion pursuant to this Section 3(L) and upon the delivery of the Shares of Common Stock, the number of Shares issuable pursuant to Warrants held by each Warrantholder shall be reduced automatically to zero; and, for the avoidance of doubt, any such Warrants so converted into Shares shall no longer be deemed outstanding.

(M) [Reserved.]

(N) Any Warrantholder that has been determined by the Company to be a U.S. Citizen may exercise all or a portion of the Warrants evidenced by this Warrant Certificate at any time or from time to time on any Business Day after the execution and delivery of this Warrant Certificate by the Company on the date hereof, but in no event later than 5:00 p.m., New York City time, on the Expiration Date. To effect exercise, a Warrantholder shall deliver to the Warrant Agent (or to the Company or to such other office or agency of the Company in the United States as the Company may designate by notice in writing to the Warrantholders pursuant to Section 21) (i) a Notice of Exercise, duly completed and executed, and (ii) payment of the Exercise Price for the Shares thereby purchased by having the Company withhold, from the number of Shares of Common Stock that would otherwise be delivered to such Warrantholder upon such exercise, the number of Shares equal in value to the aggregate Exercise Price as to all Shares the Company would otherwise be obligated to deliver, based on the closing Market Price of the Common Stock on the trading day preceding the day the Warrant will be converted to Shares by the Company pursuant to this Section 3(N). The subject Warrant shall also be included with the Notice. For the avoidance of doubt, if Warrants are exercised such that the Exercise Price would exceed the value of the Shares issuable upon exercise, no amount shall be due and payable by the Warrantholder to the Company, nor shall any Shares be delivered to the exercising Warrantholder. If this Warrant Certificate shall have been exercised in full, the Warrant Agent shall promptly cancel such certificate following its receipt from the Warrantholder.

4. Issuance of Shares; Authorization. Shares issued upon exercise of Warrants evidenced by this Warrant Certificate shall be (a) issued in such name or names as the exercising Warrantholder may designate and (b) delivered by the Transfer Agent to such Warrantholder or its nominee or nominees (i) if the Shares are then able to be so delivered, via book-entry transfer crediting the account of such Warrantholder with the Transfer Agent, or (ii) otherwise in certificated form by physical delivery to the address specified by the Warrantholder in the Notice of Exercise. The Company shall cause the number of full Shares to which such Warrantholder shall be entitled to be so delivered by the Transfer Agent within a reasonable time, not to exceed five (5) Business Days after the date on which Warrants evidenced by this Warrant Certificate have been duly exercised in accordance with the terms hereof.

The Company hereby represents and warrants that any Shares issued upon the exercise of Warrants evidenced by this Warrant Certificate in accordance with the provisions of Section 3 will be duly and validly authorized and issued, fully paid and nonassessable and free from all taxes, liens and charges, other than liens or charges created by a Warrantholder, income and franchise taxes incurred in connection with the exercise of the Warrant or taxes in respect of any transfer occurring contemporaneously therewith. The Company agrees that the Shares so issued will be deemed to have been issued to a Warrantholder as of the close of business on the date on which Warrants evidenced by this Warrant Certificate have been duly exercised, notwithstanding that the stock transfer books of the Company may then be closed or certificates representing such Shares may not be actually delivered on such date. The Company will at all times reserve and keep available, out of its authorized but unissued Common Stock, solely for the purpose of providing for the exercise of Warrants evidenced by this Warrant Certificate, the aggregate number of shares of Common Stock then issuable upon exercise hereof at any time. The Company will use reasonable best efforts to ensure that the Shares may be issued without violation of any applicable law or regulation or of any requirement of any securities exchange on which the Shares may be listed or traded.

5. No Fractional Shares or Scrip. Upon exercise of any Warrants, the Company shall (a) not issue fractional Shares or scrip representing fractional Shares, and (b) adjust downward to the nearest whole number the number of Shares to be issued to the exercising Warrantholder. If more than one Warrant is presented for exercise in full at the same time by the same Warrantholder or owner of a beneficial interest in Warrants, the number of full Shares issuable upon the exercise thereof shall be computed on the basis of the aggregate number of Shares issuable on all such Warrants presented.

6. No Rights as Stockholders; Transfer Books. Prior to the exercise or conversion hereof into Shares, the Warrants evidenced by this Warrant Certificate do not entitle the Warrantholder or the owner of any beneficial interest in such Warrants to any rights as a stockholder of the Company, including, without limitation, any rights to vote, to receive dividends or other distributions, to exercise any preemptive right, or to receive notice as stockholders in respect of any meetings of stockholders. The Company shall at no time close its transfer books against transfer of Warrants in any manner which interferes with the timely exercise hereof.

7. Charges, Taxes and Expenses. Issuance of Shares in certificated or book-entry form to the Warrantholder upon the exercise of Warrants evidenced by this Warrant Certificate shall be made without charge to the Warrantholder for any issue or transfer tax or other incidental expense in respect of the issuance of such Shares all of which taxes and expenses shall be paid by the Company. Each Warrantholder or beneficial owner of a Warrant shall be responsible for the payment or discharge of any liens or charges created by such Warrantholder or beneficial owner and for any income and franchise taxes incurred in connection with the exercise of the Warrant(s) or taxes in respect of any transfer occurring contemporaneously therewith.

8. Transfer; Assignment. This Warrant Certificate and all rights hereunder are transferable, in whole or in part, upon the books of the Company (or an agent duly appointed by the Company) by the registered holder hereof in person or by duly authorized attorney, and upon surrender, for such transfer purposes, of this Warrant Certificate (duly endorsed) to the office or agency of the Company described in Section 3, the Company shall make and deliver one or more new Warrant Certificates of the same tenor and date as this Warrant Certificate but registered in the name of one or more transferees. All expenses (other than stock transfer taxes) and other charges payable in connection with the preparation, execution and delivery of the new Warrant Certificates pursuant to this Section 8 shall be paid by the Company.

9. Exchange and Registry of Warrants. This Warrant Certificate is exchangeable, upon the surrender hereof by the Warrantholder to the Company, for a new Warrant Certificate or Warrant Certificates of like tenor and representing the same aggregate number of Warrants. The Company or an agent duly appointed by the Company (which initially shall be the Warrant Agent) shall maintain a Registry showing the name and address of the Warrantholder as the registered holder of this Warrant Certificate. This Warrant Certificate may be surrendered for exchange or exercise in accordance with its terms, at the office of the Company or any such agent, and the Company shall be entitled to rely in all respects, prior to written notice to the contrary, upon such Registry.

10. Loss, Theft, Destruction or Mutilation of Warrant Certificate. If a Warrant Certificate is lost, stolen, destroyed or mutilated, the Company shall make and deliver, in lieu of such lost, stolen, destroyed or mutilated Warrant Certificate, a new Warrant Certificate of like tenor and representing the same aggregate number of Warrants as provided for in such lost, stolen, destroyed or mutilated Warrant Certificate, (a) in the case of loss, theft or destruction, upon receipt by the Company of proof reasonably satisfactory to it of the loss, theft or destruction, provided, however, if the Company or the Warrant Agent requires Warrantholder to provide an indemnity bond pursuant to Section 2.06 of the Warrant Agreement, upon receipt of such bond and (b) in the case of mutilation, upon surrender and cancellation of this Warrant Certificate.

11. Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein is not a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

12. Adjustments and Other Rights. The Warrant Share Number shall be subject to adjustment from time to time as follows; provided that if more than one subsection of this Section 12 is applicable to a single event, the subsection shall be applied that produces the largest adjustment in favor of the Warrantholder and no single event shall cause an adjustment under more than one subsection of this Section 12 so as to result in duplication:

(A) Dividend, Subdivision, Combination or Reclassification of Common Stock. In the event that the Company shall at any time or from time to time, after the issuance of this Warrant but prior to the exercise hereof, (a) make a dividend or distribution on the outstanding shares of Common Stock payable in shares of Common Stock, (b) subdivide the outstanding shares of Common Stock into a larger number of shares, (c) combine the outstanding shares of Common Stock into a smaller number of shares or (d) issue any shares of its Capital Stock in a reclassification of the Common Stock (other than any such event for which an adjustment is made pursuant to another provision of this Section 12), then, and in each such case, the Warrant Share Number immediately prior to such event shall be adjusted (and any other appropriate actions shall be taken by the Company) so that the Warrantholder shall be entitled to receive upon the exercise of this Warrant a number of shares of Common Stock or other securities of the Company that the Warrantholder would have owned or would have been entitled to receive upon or by reason of any event described above, had this Warrant been exercised immediately prior to the occurrence of such event, calculated to the nearest 1/1,000th of a share. Any adjustment made pursuant to this Section 12(A) shall become effective retroactively (i) in the case of any such dividend or distribution, if the same shall not be subject to any express condition which shall not have already occurred, to the date immediately following the close of business on the record date for the determination of holders of shares of Common Stock entitled to receive such dividend or distribution or (ii) in the case of any such subdivision, combination or reclassification, to the close of business on the date on which such corporate action becomes effective.

(B) Certain Distributions. If, at any time or from time to time after the issuance of this Warrant but prior to the exercise hereof, the Company fixes a record date for the making of a distribution to all holders of shares of Common Stock (including any such distribution made in connection with a merger or consolidation in which the Company is the resulting or surviving Person and shares of Common Stock are not changed or exchanged) of cash, evidences of indebtedness of the Company or another issuer, securities of the Company or another issuer or other assets (excluding (x) any dividend or other distribution payable in shares of Common Stock for which adjustment is made under Section 12(A) or Section 12(G) and (y) any distribution in connection with an Excluded Transaction) or rights or warrants to subscribe for or purchase any of the foregoing, then, and in each such case, the Warrant Share Number shall be increased to a number (calculated to the nearest 1/1,000th of a share) equal to the product of (a) the Warrant Share Number immediately prior to the record date for the distribution of such cash, evidences of indebtedness, securities, other assets or rights or warrants multiplied by (b) the quotient of:

(i) the Current Market Price immediately prior to the first date on which the Common Stock trades regular way on the principal national securities exchange on which the Common Stock is listed or admitted to trading without the right to receive such distribution of such cash, evidences of indebtedness, securities or other assets or rights or warrants (or, if the Common Stock is not then so listed or traded, the first business day after the record date for such distribution); divided by

(ii) the total (which total shall be greater than zero) of (x) the Current Market Price on the date specified in (i) above minus (y) the Fair Market Value per share of Common Stock of such cash, evidences of indebtedness, securities or other assets or rights or warrants.

Such adjustment shall be made whenever any such distribution is made and shall become effective retroactively to the date immediately following the close of business on the record date for the determination of stockholders of the Company entitled to receive such distribution. Notwithstanding the adjustment provided for in this paragraph (B), the amount of the adjustment to the Warrant Share Number otherwise required thereunder shall be reduced as to *each* Warrant in the event any withholding or deduction with respect to taxes would be required under applicable law (as reasonably determined by the Board of Directors, hereafter “Required Withholding”) for *any* outstanding Warrant (including Warrants held by other Warrantholders) in connection with such adjustment. The reduction for each Warrant shall be equal to the product of the Maximum Withholding Rate times the highest amount of the unreduced adjustment for any outstanding Warrant (including Warrants held by other Warrantholders) for which there would have been Required Withholding. The “Maximum Withholding Rate” shall be the highest Required Withholding rate applicable to *any* such Warrant with respect to the current adjustment, as reasonably determined by the Board of Directors. The dollar value of the reduction (based on the distribution to which the adjustment related) for the Required Withholding for each Warrant shall be remitted in cash to the appropriate taxing authority or authorities in accordance with applicable law.

(C) Other Changes. If, at any time or from time to time after the issuance of this Warrant but prior to the exercise or conversion hereof, the Company takes any action which (a) affects the Common Stock and (b) is similar to, or has an effect similar to, any of the actions described in any of Sections 12(A), 12(B) or 12(G) (but not including any action described in any such Section), including a Pro Rata Repurchase Offer, the Board of Directors shall promptly and in good faith adjust the Warrant Share Number as a result of such action in such manner and at such time as the Board of Directors determines in good faith would be equitable to the Warrantholders under such circumstances which determination shall be evidenced in a resolution of the Board of Directors, a certified copy of which shall be mailed by the Company to the Warrantholder.

(D) No Adjustment. If an adjustment to the Warrant Share Number in respect of the issuance or sale of a Common Stock Equivalent has been previously made, the exercise of such Common Stock Equivalent in accordance with its terms existing at the time such adjustment was made shall not result in a further adjustment. If an adjustment to the Warrant Share Number in respect of the issuance or sale of a Common Stock Equivalent was not required, the exercise of such Common Stock Equivalent in accordance with its terms existing at the time of issuance shall not result in an adjustment pursuant thereto. In addition, subject to Section 12(A), no adjustment shall be made for accumulated and unpaid dividends.

Notwithstanding anything to the contrary herein, no adjustment to the Warrant Share Number needs be made for a given transaction if each holder of Warrants participates and benefits, on the same terms and otherwise on the same basis and solely as a result of holding the Warrants, as holders of shares of Common Stock without such holders of Warrants having to exercise the Warrants as if they held a number of shares of Common Stock equal to the then-current Warrant Share Number multiplied by the number of Warrants held by such Holder.

(E) Abandonment. If the Company takes a record of the holders of shares of Common Stock for the purpose of entitling them to receive a dividend or other distribution and, before paying or delivering such dividend or distribution to the stockholders of the Company, the Company legally abandons its plan to pay or deliver such dividend or distribution (and, following such abandonment, the holders of such shares have no claim against the Company for such dividend or distribution), then no adjustment in the Warrant Share Number shall be required by reason of the taking of such record.

(F) Notice and Certificate as to Adjustments. In the event that the Company proposes to take any action of the type described in this Section 12 (but only if the action of the type described in this Section 12 would result in an adjustment in the Warrant Share Number or a change in the type of securities or property to be delivered upon exercise of a Warrant), the Company shall deliver to the Warrant Agent a notice and shall cause such notice to be sent or communicated to the Warrantholders in the manner set forth in Section 21, which notice shall specify the record date, if any, with respect to any such action and the approximate date on which such action is to take place. Such notice shall also set forth the facts with respect thereto as shall be reasonably necessary to indicate the effect on the Warrant Share Number and the number, kind or class of shares or other securities or property which shall be deliverable upon exercise of a Warrant. In the case of any action which would require the fixing of a record date, such notice shall be given at least 20 days prior to the date so fixed, and in case of all other action, such notice shall be given at least 30 days prior to the taking of such proposed action. The Company shall, at the time it makes such notice, post a copy of such notice on its website and issue a press release for publication on a newswire service. The Company shall, within 40 days following the event requiring any adjustment to the Warrant Share Number, deliver to the Warrant Agent a certificate, signed by the Chief Financial Officer of the Company, which (a) sets forth in reasonable detail (i) the event requiring such adjustment and (ii) the method by which such adjustment was calculated and (b) specifies the adjusted Warrant Share Number in effect following such adjustment. In the case of any Significant Transaction, the Company shall also deliver to the Warrant Agent the certificate described in Section 12(G)(b) at least 20 days prior to consummating such Significant Transaction. Failure to give such notice or to provide such certificate referred to above, or any defect therein, shall not affect the legality or validity of any such action.

(G) Spin-off; Significant Transaction.

(a) Spin-off. If, at any time after the issuance of this Warrant but prior to the exercise hereof, the Company shall spin-off or otherwise distribute on a pro rata basis some or all of the equity securities of a subsidiary of the Company to the Company's stockholders (the "Separated Entity"), then the Company (a) shall issue to the Warrantholder a new warrant to purchase, at the Exercise Price, or convert its new warrant into, the number of shares of Capital Stock or other proprietary interest in the Separated Entity that the Warrantholder would have owned had the Warrantholder exercised this Warrant immediately prior to the consummation of such spin-off or distribution and (b) shall make provision therefor in the agreement, if any, relating to such spin-off or distribution. Such new warrant shall provide for rights and obligations which shall be as nearly equivalent as may be practicable to the rights and obligations provided for in this Warrant. Notwithstanding the two foregoing sentences, if any such spin-off or distribution shall relate to an entity that will not be subject to U.S. Maritime Laws, then in connection with such spin-off or distribution the Board of Directors shall consider in good faith whether it is possible to issue to the Warrantholder shares of Capital Stock or other ownership interests directly in the name of such Warrantholder, and if the Board of Directors determines in its sole discretion that it would be possible to do so without creating a material adverse effect on such Warrantholders, then it will use reasonable efforts to provide for such direct issuance; provided, however, that in no event shall the Company be required to take any such action if, as so determined by the Board of Directors, it could interfere with, delay, or otherwise adversely affect the expected benefits of such spin-off or distribution to the Company or its stockholders. The provisions of this Section 12(G)(a) (and any equivalent thereof in any such new warrant) shall apply to successive transactions.

(b) Significant Transaction. If, at any time after the issuance of this Warrant but prior to the exercise hereof, any Significant Transaction occurs, then the Warrantholders shall have the right to acquire and receive, upon exercise of such Warrants, such cash, stock, securities or other assets or property as would have been issued or payable in such Significant Transaction (if the Warrantholder had exercised such Warrant immediately prior to such Significant Transaction) with respect to or in exchange, as applicable, for the number of Shares that would have been issued upon exercise of such Warrants, if such Warrants had been exercised immediately prior to the occurrence of such Significant Transaction. The Company shall be required to make provision for the foregoing in the definitive agreement, if any, relating to such Significant Transaction; and shall not effect any Significant Transaction unless, prior to the consummation thereof, the surviving Person (if other than the Company) resulting from such Significant Transaction, shall assume, by written instrument substantially similar in form and substance to this Warrant in all material respects (including with respect to the provisions of this Section 12 and, if the issuer of any securities into which this Warrant is exercisable is subject to the U.S. Maritime Laws, the provisions of this Warrant related thereto with respect to such issuer), the obligation to deliver to the Warrantholders such cash, stock, securities or other assets or property which, in accordance with Section 12(B), the Warrantholders are entitled to receive upon exercise of the Warrants. Notwithstanding the two foregoing sentences, if stock or securities of any Person not subject to U.S. Maritime Laws shall be issued or payable in such Significant Transaction, then in connection with such Significant Transaction, the Board of Directors shall consider in good faith whether it is possible to issue to the Warrantholder any such stock, securities or other ownership interests directly in the name of such Warrantholder, and if the Board of Directors determines in its sole discretion that it would be possible to do so without creating a material adverse effect on such Warrantholders, then it will use reasonable efforts to provide for such direct issuance; provided, however, that in no event shall the Company be required to take any such action if, as so determined by the Board of Directors, it could interfere with, delay, or otherwise adversely affect the expected benefits of such Significant Transaction to the Company or its stockholders. The provisions of this Section 12(G)(b) (and any equivalent thereof in any such new warrant) shall apply to successive transactions.

(H) Timing of Issuance of Additional Common Stock Upon Certain Adjustments. In any case in which the provisions of this Section 12 shall require that an adjustment shall become effective immediately after a record date for an event, then, notwithstanding any other provision of this Warrant, the Company may defer until the occurrence of such event issuing to a Warrantholder of Warrants exercised after such record date and before the occurrence of such event the Shares issuable upon such exercise by reason of the adjustment required by such event over and above the shares of Common Stock issuable upon such exercise before giving effect to such adjustment; provided, however, that the Company upon request shall deliver to such Warrantholder a due bill or other appropriate instrument evidencing such Warrantholder's right to receive such additional Shares upon the occurrence of the event requiring such adjustment.

(I) Proceedings Prior to Any Action Requiring Adjustment. As a condition precedent to the taking of any action which would require an adjustment pursuant to this Section 12, the Company shall promptly take (and shall be permitted by the Warrantholders to take) any action which may be necessary, including obtaining any applicable national securities exchange or stockholder approvals or exemptions, in order that the Company may thereafter validly and legally issue as fully paid and nonassessable all Shares that a Warrantholder is entitled to receive upon exercise of a Warrant pursuant to this Section 12.

13. Representations and Warranties. The Company represents and warrants to the Warrantholder:

(A) Organization and Qualification. The Company is a Delaware corporation duly formed, validly existing and in good standing under the laws of the State of Delaware. The Company is duly qualified or licensed to conduct business in each jurisdiction where the nature of its business or assets requires such qualification. The Company has full power and authority and all material licenses, permits and authorizations necessary to own and operate its properties and to carry on its business as now conducted, and the Company is not in default under or in violation of any provision of its Charter.

(B) Agreements Valid. The Company has all necessary power and authority to execute, deliver and perform the obligations under this Warrant and the execution, delivery and performance by the Company of this Warrant has been duly authorized by all necessary action; and this Warrant has been duly and validly executed and delivered by the Company and constitutes the legal, valid and binding obligations of the Company and is enforceable against the Company in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors, rights generally and by general equitable principles and except as rights to indemnity thereunder may be limited by applicable securities laws.

(C) Non-Contravention. The execution, delivery and performance by the Company of this Warrant and the issuance by the Company of the aggregate number of shares of Common Stock upon exercise of the Warrant, do not and will not contravene or constitute a default under any provision of applicable law or regulation or of the Charter or of any agreement, judgment, injunction, order, decree or other instrument binding upon the Company or result in the creation or imposition of any lien on any asset of the Company.

14. Valid Company Interest. The Company covenants and agrees that the interest in the Company represented by the shares of Common Stock to be delivered on the exercise of the Warrants and the payment of the share Warrant price herein provided for shall, at the time of such delivery, be duly authorized and validly issued and entitle the holder thereof to the full benefits of a holder of shares under the Charter.



15. [Reserved.]

16. [Reserved.]

17. [Reserved.]

18. Governing Law; Waiver of Jury Trial. This Warrant Certificate and the Warrants evidenced hereby shall be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed entirely within such State.

**THE COMPANY AND THE WARRANTHOLDER HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, SUIT, CLAIM OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS WARRANT CERTIFICATE AND THE WARRANTS EVIDENCED HEREBY (WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE).**

19. Binding Effect; Countersignature by Warrant Agent. This Warrant Certificate shall be binding upon any successors or assigns of the Company. This Warrant Certificate shall not be valid until an authorized signatory of the Warrant Agent or its agent as provided in the Warrant Agreement countersigns this Warrant Certificate. Such signature shall be solely for the purpose of authenticating this Warrant Certificate and shall be conclusive evidence that this Warrant Certificate has been countersigned under the Warrant Agreement.

20. Warrant Agreement; Amendments. The Warrant Agreement is hereby incorporated herein by reference and made a part hereof. Reference is hereby made to the Warrant Agreement for a statement of the respective rights, limitations of rights, duties and obligations of the Company, the Warrant Agent and the Warrantholders and beneficial owners of the Warrants. A copy of the Warrant Agreement may be obtained for inspection by the Warrantholders or beneficial owners of the Warrants upon request to the Warrant Agent at the address of the Warrant Agent (or successor warrant agent) set forth in the Warrant Agreement. The Warrant Agreement and this Warrant Certificate may be amended and the observance of any term of the Warrant Agreement or this Warrant Certificate may be waived only to the extent provided in the Warrant Agreement.

21. Notices. Any notice or communication to be delivered to the Warrantholder shall be delivered to the Warrantholder at the Warrantholder's address as it appears in the Registry and shall be sufficiently given if so mailed within the time prescribed.

22. Interpretation. Nothing contained in the Warrant Certificate shall be used to construe the terms or meaning of any other agreement, warrant, other security or any warrant certificate.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be duly executed by a duly authorized officer. This Warrant Certificate shall not be valid or obligatory for any purpose until it shall have been countersigned by the Warrant Agent.

Dated: GULFMARK OFFSHORE, INC.  
By: \_\_\_\_\_  
Name:  
Title:

Countersigned:  
[NAME],  
as Warrant Agent

By: \_\_\_\_\_  
Authorized Signatory

### Schedule A

The initial number of Warrants represented by this Warrant Certificate is

The following decreases in the number of Warrants represented by this Warrant Certificate have been made as a result of the exercise of certain Warrants represented by this Warrant Certificate:

<b>Date of Exercise of Warrants</b>	<b>Number of Warrants Exercised</b>	<b>Total Number of Warrants Represented Hereby Following Such Exercise</b>	<b>Notation Made by Warrant Agent</b>

**Annex A**

**Form of Notice of Exercise**

(to be executed only upon exercise of Warrants)

Date:

TO: GULFMARK OFFSHORE, INC. (the "Company")

RE: Election to Purchase Common Stock

The undersigned registered holder of [ ] Warrants irrevocably elects to exercise the number of Warrants set forth below represented by the Warrant Certificate enclosed herewith, and surrenders all right, title and interest in the number of Warrants exercised hereby to the Company, and directs that the shares of Common Stock or other securities or property delivered upon exercise of such Warrants, and any interests in the Warrant Certificate representing unexercised Warrants, be registered or placed in the name and at the address specified below and delivered thereto.

Number of Warrants \_\_\_\_\_

☐ Check if Warrantholder believes it satisfies the requirements to be a U.S. Citizen (additional information may be required by Company to confirm that Warrantholder is a U.S. Citizen).

☐ Check if Warrantholder believes it is a Non-U.S. Citizen.

Warrantholder: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature guaranteed by (if a guarantee is required)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Securities to be issued to:

Social Security Number or Other Identifying Number:

Name:

Street Address:

City, State and Zip Code:

Any unexercised Warrants evidenced by the exercising Warrantholder’s interest in the Warrant Certificate, as the case may be, to be issued to:

Social Security Number or Other Identifying Number:

Name:

Street Address:

City, State and Zip Code:

### Form of Assignment

For value received, the undersigned registered Warrantholder of the within Warrant Certificate hereby sells, assigns and transfers unto the Assignee(s) named below (including the undersigned with respect to any Warrants constituting a part of the Warrants evidenced by the within Warrant Certificate not being assigned hereby) all of the right, title and interest of the undersigned under the within Warrant Certificate with respect to the number of Warrants set forth below.

<b>Name of Assignees</b>	<b>Address</b>	<b>Number of Warrants</b>	<b>Social Security Number or other Identifying Number</b>
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and does irrevocably constitute and appoint [ ], the undersigned's attorney, to make such transfer on the books of the Company maintained for the purpose, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Warrantholder: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature guaranteed by (if a guarantee is required)

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\_\_\_\_\_

FORM OF TRANSFER CERTIFICATE FOR TRANSFER OF  
RESTRICTED COMMON STOCK

[NAME]

[ADDRESS]

Re: Restricted Common Stock of GulfMark Offshore, Inc.

Ladies and Gentlemen:

This Certificate relates to\_\_shares of Common Stock represented by the accompanying certificate(s) that were issued upon exercise of Warrants and which are held in the name of [name of transferor] (the “Transferor”) to effect the transfer of such Common Stock.

Such shares of Common Stock are only being transferred:

CHECK ONE BOX BELOW

- (1) ☐ to the Company or one of its subsidiaries; or
- (2) ☐ pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder.
- (3) ☐ pursuant to an shelf registration statement of the Company that has been declared effective under the Securities Act, in connection with the transfer of such shares of Common Stock .

*[signature page follows]*

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Unless one of the boxes is checked, the transfer agent will refuse to register any of the Common Stock evidenced by this certificate in the name of any person other than the registered Holder thereof; *provided, however*, that if box (2) or (3) is checked, the transfer agent may require, prior to registering any such transfer of the Common Stock such certifications and other information, and if box (3) is checked such legal opinions, as the Company has reasonably requested in writing, by delivery to the transfer agent of a standing letter of instruction, to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

[Name of Transferor],

By: \_\_\_\_\_  
Name:  
Title:  
Dated:



## REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (including all exhibits hereto and as may be amended, supplemented or amended and restated from time to time in accordance with the terms hereof, this “*Agreement*”) is made and entered into as of November 14, 2017, by and among GulfMark Offshore, Inc., a Delaware corporation (the “*Company*”), and the other parties signatory hereto and any additional parties identified on the signature pages of any joinder agreement executed and delivered pursuant hereto.

WHEREAS, the Company filed a plan of reorganization pursuant to Chapter 11 of the United States Bankruptcy Code, on May 17, 2017, which was confirmed by the United States Bankruptcy Court for the District of Delaware on October 4, 2017 (including all exhibits, schedules and supplements thereto and as amended from time to time, the “*Plan*”); and

WHEREAS, the Plan provides that the Company will enter into a registration rights agreement with each Holder (as defined below) and any Affiliates or Related Funds thereof that receive New Common Stock or New Noteholder Warrants under the Plan; and

WHEREAS, the Company and the Holders are entering into this Agreement in furtherance of the aforesaid provisions of the Plan.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Company and each of the Holders agree as follows:

1. Definitions. Capitalized terms used and not otherwise defined herein that are defined in the Plan have the meanings given such terms in the Plan. As used in this Agreement, the following terms shall have the following meanings:

“*Advice*” has the meaning set forth in Section 16(c).

“*Affiliate*” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person as of the date on which, or at any time during the period for which, the determination of affiliation is being made (including any Related Funds of such Person). For purposes of this definition, the term “control” (including the correlative meanings of the terms “controlled by” and “under common control with”), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

“*Agreement*” has the meaning set forth in the Preamble.

“*Automatic Shelf Registration Statement*” means an “automatic shelf registration statement” as defined in Rule 405 promulgated under the Securities Act, as such definition may be amended from time to time.

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“*Backstop Commitment Agreement*” means that certain Backstop Commitment Agreement, dated as of May 15, 2017, by and among the Company and the commitment parties that are parties thereto, as may be amended, restated or supplemented from time to time.

“*beneficially own*” (and related terms such as “beneficial ownership” and “beneficial owner”) shall have the meaning given to such term in Rule 13d-3 under the Exchange Act, and any Person’s beneficial ownership of securities shall be calculated in accordance with the provisions of such Rule.

“*Board*” means the Board of Directors of the Company or any authorized committee thereof.

“*Bought Deal*” has the meaning set forth in Section 8(a).

“*Business Day*” means any day, other than a Saturday or Sunday or a day on which commercial banks in New York City are authorized or required by law to be closed.

“*Commission*” means the Securities and Exchange Commission.

“*Company*” has the meaning set forth in the Preamble and includes the Company’s successors by merger, acquisition, reorganization or otherwise.

“*Counsel to the Holders*” means (i) with respect to any Demand Registration, one counsel selected by the Holders of a majority of the Registrable Securities initially requesting such Demand Registration and (ii) with respect to any Underwritten Takedown or Piggyback Registration, one counsel selected by the Majority Holders.

“*Demand Registration Request*” has the meaning set forth in Section 5(a).

“*Effective Date*” means the date that a Registration Statement filed pursuant to this Agreement is first declared effective by the Commission.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“*Form S-1*” means form S-1 under the Securities Act, or any other form hereafter adopted by the Commission for the general registration of securities under the Securities Act.

“*Form S-3*” means form S-3 under the Securities Act, or any other form hereafter adopted by the Commission having substantially the same usage as Form S-3.

“*Form S-4*” means form S-4 under the Securities Act, or any other form hereafter adopted by the Commission having substantially the same usage as Form S-4.

“*Form S-8*” means form S-8 under the Securities Act, or any other form hereafter adopted by the Commission having substantially the same usage as Form S-8.

“*FINRA*” has the meaning set forth in Section 10.

“*Grace Period*” has the meaning set forth in Section 7(a)(B).

“*Holder*” or “*Holders*” means the parties signatory to this Agreement, other than the Company, and any additional parties identified on the signature pages of any joinder agreement executed and delivered pursuant to this Agreement. A Person shall cease to be a Holder hereunder at such time as it ceases to hold any Registrable Securities.

“*Indemnified Party*” has the meaning set forth in Section 12(c).

“*Indemnifying Party*” has the meaning set forth in Section 12(c).

“*Initial Registrable Securities Number*” means the number of Registrable Securities beneficially owned by all Holders as of the Plan Effective Date, appropriately adjusted for any stock splits, reverse stock splits, stock dividends or similar transactions involving the Company’s New Securities.

“*Initial Shelf Expiration Date*” has the meaning set forth in Section 2(f).

“*Initial Shelf Registration Statement*” has the meaning set forth in Section 2(a).

“*Initial Holder*” means a Holder signatory to this Agreement on the date hereof.

“*Lockup Period*” has the meaning set forth in Section 11(a).

“*Losses*” has the meaning set forth in Section 12(a).

“*Majority Holders*” means, with respect to any Underwritten Offering, the holders of a majority of the Registrable Securities (with the New Warrants included on an as exercised basis, assuming cashless exercise of the New Existing Equity Warrants) to be included in such Underwritten Offering held by all Holders that have made the request requiring the Company to conduct such Underwritten Offering (but not including any Holders that have exercised “piggyback” rights hereunder to be included in such Underwritten Offering).

“*New Common Stock*” means the shares of common stock, par value \$0.01 per share, of the Company issued pursuant to the Plan, inclusive of any shares of common stock to be issued upon the exercise of the New Warrants.

“*New Existing Equity Warrants*” means the warrants for 7.5% of the Reorganized GulfMark Equity which shall be issued to holders of Allowed Debtor Common Shares as provided in Section 4.8(b) of the Plan, and issued pursuant to and governed by the terms of the New Existing Equity Warrant Agreement.

“*New Noteholder Warrants*” means the warrants to be issued to holders of Allowed Unsecured Notes Claims pursuant to the Rights Offerings and Backstop Commitment Agreement and as provided in Section 4.5(c) of the Plan, and, in accordance with the New Noteholder Warrant Agreement entitling the holders thereof to purchase New Common Stock with an exercise price per warrant equal to \$0.01 per share.

“*New Securities*” means, collectively, the New Common Stock and the New Warrants.

“*New Warrants*” means the New Noteholder Warrants and the New Existing Equity Warrants.

“*Other Holder*” has the meaning set forth in Section 8(b).

“*Person*” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“*Piggyback Notice*” has the meaning set forth in Section 8(a).

“*Piggyback Offering*” has the meaning set forth in Section 8(a).

“*Plan*” has the meaning set forth in the Preamble.

“*Plan Effective Date*” shall mean the date on which the Plan becomes effective.

“*Proceeding*” means an action, claim, suit, investigation or proceeding (including, without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or threatened.

“*Prospectus*” means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

*“Registrable Securities”* means, collectively, (a) as of the Plan Effective Date, all New Securities issued to any Holder or to any Affiliate or Related Fund of any Holder, either directly or pursuant to a joinder or assignment and any additional New Securities acquired by any Holder, Affiliate or Related Fund of any Holder in open market or other purchases and issued or issuable to any Holder, Affiliate or Related Fund of any Holder, after the Plan Effective Date and (b) any additional New Securities paid, issued or distributed in respect of any such securities by way of a stock dividend, stock split or distribution, or in connection with a combination of securities, and any security into which such New Securities shall have been converted or exchanged in connection with a recapitalization, reorganization, reclassification, merger, consolidation, exchange, distribution or otherwise; *provided, however*, that as to any Registrable Securities, such securities shall cease to constitute Registrable Securities upon the earliest to occur of: (i) the date on which such securities are disposed of pursuant to an effective Registration Statement or (ii) the date on which such securities are disposed of, or after one year from the Plan Effective Date, may be disposed of without limitation as to volume or manner of sale, pursuant to Rule 144 (or any similar provision then in effect) promulgated under the Securities Act.

*“Registration Statement”* means any one or more registration statements of the Company filed under the Securities Act that covers the resale of any of the Registrable Securities pursuant to the provisions of this Agreement (including, without limitation, any Shelf Registration Statement), amendments and supplements to such registration statements, including post-effective amendments, all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such Registration Statements.

*“Related Fund”* means (i) any investment funds or other entities who are advised by the same investment advisor and (ii) any investment advisor with respect to an investment fund or entity it advises.

*“Rule 144”* means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such rule.

*“Rule 158”* means Rule 158 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such rule.

*“Rule 415”* means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such rule.

*“Rule 424”* means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such rule.

*“Securities Act”* means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“*Selling Stockholder Questionnaire*” means a questionnaire reasonably adopted by the Company from time to time.

“*Shelf Registration Statement*” means a Registration Statement filed with the Commission in accordance with the Securities Act for the offer and sale of Registrable Securities by Holders on a continuous or delayed basis pursuant to Rule 415.

“*Trading Day*” means a day during which trading in the New Common Stock occurs in the Trading Market, or if the New Common Stock is not listed on a Trading Market, a Business Day.

“*Trading Market*” means whichever of the New York Stock Exchange, the NYSE MKT, the NASDAQ Global Select Market, the NASDAQ Global Market, the NASDAQ Capital Market, OTC Bulletin Board, or OTC Markets Group marketplace on which the New Securities are listed or quoted for trading on the date in question.

“*Transfer*” has the meaning set forth in Section 14.

“*Underwritten Offering*” means an offering of Registrable Securities under a Registration Statement in which the Registrable Securities are sold to an underwriter for reoffering to the public.

“*Underwritten Takedown*” has the meaning set forth in Section 2(h).

## 2. Initial Shelf Registration.

(a) Following a request (the “*Shelf Request*”) by Holders for the inclusion in the Initial Shelf Registration Statement of Registrable Securities constituting at least twenty-five percent (25%) of all Registrable Securities (with the New Warrants included on an as exercised basis, assuming cashless exercise of the New Existing Equity Warrants), and such Holders otherwise timely comply with the requirements of this Agreement with respect to the inclusion of such Registrable Securities in the Initial Shelf Registration Statement (and have not by the 45th day after the date on which the Shelf Request was made revoked such request by written notice to the Company), the Company shall prepare a Shelf Registration Statement (as may be amended from time to time, the “*Initial Shelf Registration Statement*”), and shall include in the Initial Shelf Registration Statement the Registrable Securities of each Holder who shall request inclusion therein (subject to such Holder providing a Selling Stockholder Questionnaire at least three (3) business days prior to the required filing date) of some or all of their Registrable Securities by checking the appropriate box on the signature page of such Holder hereto or by written notice to the Company no later than 30 days after the date on which the Shelf Request was made. The Company shall file the Initial Shelf Registration Statement with the Commission on or prior to the 60th day following the date on which the Shelf Request was made (subject to postponement or blackout pursuant to a Grace Period as set forth in Section 7(a)).

(b) The Company shall include in the Initial Shelf Registration Statement all Registrable Securities whose inclusion has been timely requested as aforesaid; *provided, however*, that the Company shall not be required to include an amount of Registrable Securities in excess of the amount as may be permitted to be included in such Registration Statement under the rules and regulations of the Commission and the applicable interpretations thereof by the staff of the Commission.

(c) Upon the request of any Holder whose Registrable Securities are not included in the Initial Shelf Registration Statement (subject to such Holder providing a Selling Stockholder Questionnaire at least three (3) business days prior to the required filing date), the Company shall amend the Initial Shelf Registration Statement to include the Registrable Securities of such Holder; *provided that* the Company shall not be required to amend the Initial Shelf Registration Statement more than once every fiscal quarter of the Company.

(d) Within ten (10) days after receiving a request pursuant to Section 2(c), the Company shall give written notice of such request to all other Holders of Registrable Securities and shall include in such amendment all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within fifteen (15) days after the Company's giving of such notice, *provided that* such Registrable Securities are not already covered by an existing and effective Registration Statement that may be utilized for the offer and sale of the Registrable Securities requested to be registered in the manner so requested.

(e) The Initial Shelf Registration Statement shall be on Form S-1; *provided, however*, that, if the Company becomes eligible to register the Registrable Securities for resale by the Holders on Form S-3 (including without limitation a Form S-3 filed as an Automatic Shelf Registration Statement), the Company shall be entitled to amend the Initial Shelf Registration Statement to a Shelf Registration Statement on Form S-3 or file a Shelf Registration Statement on Form S-3 in substitution of the Initial Shelf Registration Statement as initially filed.

(f) The Company shall use its commercially reasonable efforts to cause the Initial Shelf Registration Statement to be declared effective by the Commission as promptly as reasonably practicable, so long as, prior to the Company's request for effectiveness, the Initial Shelf Registration Statement reflects or has been amended to reflect post-Plan Effective Date fresh-start accounting, and shall use its commercially reasonable efforts to keep such Initial Shelf Registration Statement continuously effective, and not subject to any stop order, injunction or other similar order or requirement of the Commission (subject to postponement or blackout pursuant to a Grace Period as set forth in Section 7(a)), until the earlier of (i) three (3) years following the Effective Date of such Shelf Registration Statement and (ii) the date that all Registrable Securities covered by the Initial Shelf Registration Statement shall cease to be Registrable Securities (such earlier date, the "*Initial Shelf Expiration Date*"). In the event of any stop order, injunction or other similar order or requirement of the Commission relating to the Initial Shelf Registration Statement, if any Registrable Securities covered by the Initial Shelf Registration Statement remain unsold, the period during which the Initial Shelf Registration Statement shall be required to remain effective will be extended by the number of days during which such stop order, injunction or similar order or requirement is in effect.

(g) If the Initial Shelf Registration Statement is on Form S-1, then for so long as any Registrable Securities covered by the Initial Shelf Registration Statement remain unsold, the Company will file any supplements to the Prospectus or post-effective amendments required to be filed by applicable law in order to incorporate into such Prospectus any Current Reports on Form 8-K necessary or required to be filed by applicable law, any Quarterly Reports on Form 10-Q or any Annual Reports on Form 10-K filed by the Company with the Commission, or any other information necessary so that (i) the Initial Shelf Registration Statement shall not include any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and (ii) the Company complies with its obligations under Item 512(a)(1) of Regulation S-K; *provided, however*, that these obligations remain subject to the Company's rights under Section 7 of this Agreement.

(h) Upon the demand of one or more Holders, the Company shall facilitate a "takedown" of Registrable Securities in the form of an Underwritten Offering (each, an "*Underwritten Takedown*"), in the manner and subject to the conditions described in Section 6 of this Agreement, *provided* that (i) the number of securities included in such "takedown" shall equal at least twenty-five percent (25%) of all Registrable Securities at such time (with the New Warrants included on an as exercised basis, assuming cashless exercise of the New Existing Equity Warrants) or (ii) the Registrable Securities requested to be sold by the Holders in such "takedown" shall have an anticipated aggregate gross offering price (before deducting underwriting discounts and commission) of at least \$75 million.

### 3. Subsequent Shelf Registration Statements

(a) After (i) the Effective Date of the Initial Shelf Registration Statement and prior to the Initial Shelf Expiration Date and (ii) for so long as any Registrable Securities remain outstanding, the Company shall use its commercially reasonable efforts to (A) ensure that it will be eligible to register the Registrable Securities on Form S-3 after the Initial Shelf Expiration Date, and (B) meet the requirements of General Instruction VII of Form S-1 after the Initial Shelf Expiration Date.

(b) After the Initial Shelf Expiration Date and for so long as any Registrable Securities remain outstanding, the Company shall use its commercially reasonable efforts to (A) be eligible and/or to maintain its eligibility to register the Registrable Securities on Form S-3, and (B) meet the requirements of General Instruction VII of Form S-1.



(c) After the Initial Shelf Expiration Date and for so long as any Registrable Securities remain outstanding, if there is not an effective Registration Statement which includes the Registrable Securities that are currently outstanding, the Company shall (i) if the Company is eligible to register the Registrable Securities on Form S-3, promptly file a Shelf Registration Statement on Form S-3 and use its commercially reasonable efforts to cause such Registration Statement to be declared effective or (ii) promptly file a Shelf Registration Statement on Form S-1 and use its commercially reasonable efforts to cause such Registration Statement to be declared effective and for so long as any Registrable Securities covered by such Shelf Registration on Form S-1 remain unsold, the Company will file any supplements to the Prospectus or post-effective amendments required to be filed by applicable law in order to incorporate into such Prospectus any Current Reports on Form 8-K necessary or required to be filed by applicable law, any Quarterly Reports on Form 10-Q or any Annual Reports on Form 10-K filed by the Company with the Commission, or any other information necessary so that (x) such Shelf Registration shall not include any untrue statement of material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading, and (y) the Company complies with its obligations under Item 512(a)(1) of Regulation S-K; *provided, however*, that these obligations remain subject to the Company's rights under Section 7 of this Agreement.

#### 4. Quotation on OTC Market

(a) Until and unless (x) the New Securities are listed on a "national securities exchange" as defined in Rule 600(b)(45) of Regulation National Market System promulgated by the Commission, as amended or (y) the New Securities may be sold by any and all Holders without restriction by the Commission pursuant to a Registration Statement in an at-the-market offering, the Company shall use its commercially reasonable efforts to cause the New Securities to be quoted on either the OTCQX or OTCQB as promptly as practicable after the Plan Effective Date and shall thereafter use its commercially reasonable efforts to maintain such quotation.

#### 5. Demand Registration

(a) At any time and from time to time beginning one hundred eighty (180) days after the Plan Effective Date, any Holder or group of Holders may request in writing ("*Demand Registration Request*") that the Company effect the registration of all or part of such Holder's or Holders' Registrable Securities with the Commission under and in accordance with the provisions of the Securities Act (subject to such Holder providing a Selling Stockholder Questionnaire at least three (3) business days prior to the required filing date). The Company will file a Registration Statement covering such Holder's or Holders' Registrable Securities requested to be registered, and shall use its commercially reasonable efforts to cause such Registration Statement to be declared effective, as promptly as reasonably practicable after receipt of such request, so long as, prior to the Company's request for effectiveness, the Registration Statement reflects or has been amended to reflect post-plan Effective Date fresh-start accounting (subject to postponement or blackout pursuant to a Grace Period as set forth in Section 7(a)); *provided, however*, that the Company will not be required to file a Registration Statement pursuant to this Section 5(a):

(A) unless (i) the number of Registrable Securities requested to be registered on such Registration Statement equals at least twenty-five percent (25%) of all Registrable Securities at such time (with the New Warrants included on an as exercised basis, assuming cashless exercise of the New Existing Equity Warrants) or (ii) the Registrable Securities requested to be sold by the Holders pursuant to such Registration Statement have an anticipated aggregate gross offering price (before deducting underwriting discounts and commission) of at least \$75 million;

(B) if the Registrable Securities requested to be registered are already covered by an existing and effective Registration Statement and such Registration Statement may be utilized for the offer and sale of the Registrable Securities requested to be registered;

(C) if a registration statement filed by the Company shall have previously been initially declared effective by the Commission within the one hundred eighty (180) days preceding the date such Demand Registration Request is made; and

(D) if the number of Demand Registration Requests previously made pursuant to this Section 5(a) shall equal or exceed three (3); *provided, however*, that a Demand Registration Request shall not be considered made for purposes of this clause (D) unless the requested Registration Statement has been declared effective by the Commission for more than 75% of the full amount of Registrable Securities for which registration has been requested.

(b) A Demand Registration Request shall specify (i) the then-current name and address of such Holder or Holders, (ii) the aggregate number of Registrable Securities requested to be registered, (iii) the total number of Registrable Securities then beneficially owned by such Holder or Holders, and (iv) the intended means of distribution. If at the time the Demand Registration Request is made the Company appears, based on public information available to such Holder or Holders, eligible to use Form S-3 for the offer and sale of the Registrable Securities, the Holder or Holders making such request may request that the registration be in the form of a Shelf Registration Statement (for the avoidance of doubt, the Company shall not be under the obligation to file a Shelf Registration on Form S-3 if, upon the advice of its counsel, it is not eligible to make such a filing).

(c) The Company may satisfy its obligations under Section 5(a) hereof by amending (to the extent permitted by applicable law) any registration statement previously filed by the Company under the Securities Act, so that such amended registration statement will permit the disposition (in accordance with the intended methods of disposition specified as aforesaid) of all of the Registrable Securities for which a Demand Registration Request has been properly made under Section 5(b) hereof. If the Company so amends a previously filed registration statement, it will be deemed to have effected a registration for purposes of Section 5(a) hereof; *provided, however*, that the Effective Date of the amended registration statement, as amended pursuant to this Section 5(c), shall be the “the first day of effectiveness” of such Registration Statement for purposes of determining the period during which the Registration Statement is required to be maintained effective in accordance with Section 5(e) hereof.

(d) Within ten (10) days after receiving a Demand Registration Request, the Company shall give written notice of such request to all other Holders of Registrable Securities and shall, subject to the provisions of Section 6(c) in the case of an Underwritten Offering, include in such registration all such Registrable Securities with respect to which the Company has received written requests for inclusion therein (subject to any such Holder requesting inclusion of its Registrable Securities providing a Selling Stockholder Questionnaire at least three (3) business days prior to the required filing date) within fifteen (15) days after the Company’s giving of such notice, *provided* that such Registrable Securities are not already covered by an existing and effective Registration Statement that may be utilized for the offer and sale of the Registrable Securities requested to be registered in the manner so requested.

(e) The Company will use its commercially reasonable efforts to keep a Registration Statement that has become effective as contemplated by this Section 5 continuously effective (subject to postponement or blackout pursuant to a Grace Period as set forth in Section 7 (a)), and not subject to any stop order, injunction or other similar order or requirement of the Commission:

(A) in the case of a Registration Statement other than a Shelf Registration Statement, until all Registrable Securities registered thereunder have been sold pursuant to such Registration Statement, but in no event later than two hundred seventy (270) days from the Effective Date of such Registration Statement; and

(B) in the case of a Shelf Registration Statement, until the earlier of: (x) three (3) years following the Effective Date of such Shelf Registration Statement; and (y) the date that all Registrable Securities covered by such Shelf Registration Statement shall cease to be Registrable Securities;

*provided, however*, that in the event of any stop order, injunction or other similar order or requirement of the Commission relating to any Shelf Registration Statement, if any Registrable Securities covered by such Shelf Registration Statement remain unsold, the period during which such Shelf Registration Statement shall be required to remain effective will be extended by the number of days during which such stop order, injunction or similar order or requirement is in effect; *provided further, however*, that if any Shelf Registration Statement was initially declared effective on Form S-3 and, prior to the date determined pursuant to Section 5(e)(B), the Company becomes ineligible to use Form S-3, the period during which such Shelf Registration Statement shall be required to remain effective will be extended by the number of days during which the Company did not have an effective Registration Statement covering unsold Registrable Securities initially registered on such Shelf Registration Statement.

(f) The Holder or Holders making a Demand Registration Request may, at any time prior to the Effective Date of the Registration Statement relating to such registration, revoke their request for the Company to effect the registration of all or part of such Holder's or Holders' Registrable Securities by providing a written notice to the Company. If, pursuant to the preceding sentence, the entire Demand Registration Request is revoked, then, at the option of the Holder or Holders who revoke such request, either (i) such Holder or Holders shall reimburse the Company for all of its reasonable and documented out-of-pocket expenses incurred in the preparation, filing and processing of the Registration Statement, which out-of-pocket expenses, for the avoidance of doubt, shall not include overhead expenses and which requested registration shall not count as one of the permitted Demand Registration Requests hereunder or (ii) the requested registration that has been revoked will be deemed to have been effected for purposes of Section 5(a).

(g) If a Registration Statement filed pursuant to this Section 5 is a Shelf Registration Statement, then upon the demand of one or more Holders, the Company shall facilitate a "takedown" of Registrable Securities in the form of an Underwritten Offering, in the manner and subject to the conditions described in Section 6 of this Agreement, *provided* that (i) the number of securities included in such "takedown" shall equal at least twenty-five percent (25%) of all Registrable Securities at such time (with the New Warrants included on an as exercised basis, assuming cashless exercise of the New Existing Equity Warrants) or (ii) the Registrable Securities requested to be sold by the Holders in such "takedown" shall have an anticipated aggregate offering price (before deducting underwriting discounts and commission) of at least \$75 million.

6. Procedures for Underwritten Offerings. The following procedures shall govern Underwritten Offerings pursuant to Section 2(h) or Section 5(g), whether in the case of an Underwritten Takedown or otherwise.

(a) (i) The Majority Holders shall select one or more investment banking firm(s) of national standing to be the managing underwriter or underwriters for any Underwritten Offering pursuant to a Demand Registration Request or an Underwritten Takedown with the consent of the Company, which consent shall not be unreasonably withheld, conditioned or delayed and (ii) the Company shall select one or more investment banking firms of national standing to be the managing underwriter or underwriters for any other Underwritten Offering with the consent of the Majority Holders, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) All Holders proposing to distribute their securities through an Underwritten Offering, as a condition for inclusion of their Registrable Securities therein, shall agree to enter into an underwriting agreement with the underwriters and agrees to complete and execute a Selling Stockholder Questionnaire and all reasonable questionnaires, powers of attorney, indemnities, lock-up letters and other documents required under the terms of such underwriting arrangements; *provided, however*, that the underwriting agreement is in customary form and reasonably acceptable to the Majority Holders and *provided, further, however* that no Holder of Registrable Securities included in any Underwritten Offering shall be required to make any representations or warranties to the Company or the underwriters (other than representations and warranties regarding (i) such Holder's ownership of its Registrable Securities to be sold or transferred, (ii) such Holder's power and authority to effect such transfer and (iii) such matters pertaining to compliance with securities laws as may be reasonably requested).

(c) If the managing underwriter or underwriters for an Underwritten Offering pursuant to a Demand Registration or an Underwritten Takedown advises the Holders that the total amount of Registrable Securities or other New Securities permitted to be registered is such as to materially adversely affect the success of such Underwritten Offering, the number of Registrable Securities or other New Securities to be registered on such Registration Statement will be reduced as follows: *first*, the Company shall reduce or eliminate the securities of the Company to be included by any Person other than a Holder or the Company; *second*, the Company shall reduce or eliminate any securities of the Company to be included by the Company; and *third*, the Company shall reduce the number of Registrable Securities to be included by Holders on a pro rata basis based on the total number of Registrable Securities requested by the Holders to be included in the Underwritten Offering.

(d) Within ten (10) days after receiving a request for an Underwritten Offering constituting a "takedown" from a Shelf Registration Statement, the Company shall give written notice of such request to all other Holders, and subject to the provisions of Section 6(c) hereof, include in such Underwritten Offering all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within fifteen (15) days after the Company's giving of such notice; *provided, however*, that such Registrable Securities are covered by an existing and effective Shelf Registration Statement that may be utilized for the offering and sale of the Registrable Securities requested to be registered.

(e) The Company will not be required to undertake an Underwritten Offering pursuant to Section 2(h) or Section 5(g):

(A) If the Company has undertaken an Underwritten Offering, whether for its own account or pursuant to this Agreement, within the ninety (90) days preceding the date of the request to the Company for such Underwritten Offering; or

(B) if the number of Underwritten Offerings previously made pursuant to Section 2(h) or Section 5(g) in the immediately preceding twelve (12)-month period shall equal two (2); provided that an Underwritten Offering shall not be considered made for purposes of this clause (B) unless the offering has resulted in the disposition by the Holders of at least 50% of the amount of Registrable Securities requested to be included.

7. Grace Periods.

(a) Notwithstanding anything to the contrary herein—

(A) the Company shall be entitled to postpone the filing or effectiveness of, or, at any time after a Registration Statement has been declared effective by the Commission, suspend the use of, a Registration Statement (including the Prospectus included therein) if in the good faith judgment of the Board, such registration, offering or use would reasonably be expected to materially affect in an adverse manner or materially interfere with any bona fide material financing of the Company or any material transaction under consideration by the Company or would require the disclosure of information that has not been, and is not otherwise required to be, disclosed to the public and the premature disclosure of which would materially affect the Company in an adverse manner; *provided however*, that in the event such Registration Statement relates to a Demand Registration Request or an Underwritten Offering pursuant to Section 2(h) or Section 5(g), then the Holders initiating such Demand Registration Request or such Underwritten Offering shall be entitled to withdraw the Demand Registration Request or request for the Underwritten Offering and, if such request is withdrawn, it shall not count against the limits imposed pursuant to Section 5(a)(D) or Section 6(e)(B) and the Company shall pay all registration expenses in connection with such registration; and

(B) at any time after a Registration Statement has been declared effective by the Commission and there is no duty to disclose under applicable law, the Company may delay the disclosure of material non-public information concerning the Company if the disclosure of such information at the time would, in the good faith judgment of the Board, adversely affect the Company (the period of a postponement or suspension as described in clause (A) and/or a delay described in this clause (B), a “*Grace Period*”).

(b) The Company shall promptly (i) notify the Holders in writing of the existence of the event or material non-public information giving rise to a Grace Period (provided that the Company shall not disclose the content of such material non-public information to any Holder, without the express consent of such Holder) or the need to file a post-effective amendment, as applicable, and the date on which such Grace Period will begin, (ii) use its commercially reasonable efforts to terminate a Grace Period as promptly as practicable and (iii) notify the Holders in writing of the date on which the Grace Period ends.

(c) The duration of any one Grace Period shall not exceed forty-five (45) days, and the aggregate of all Grace Periods in total during any three hundred sixty-five (365) day period shall not exceed ninety (90) days. For purposes of determining the length of a Grace Period, the Grace Period shall be deemed to begin on and include the date the Holders receive the notice referred to in clause (i) of Section 7(b) and shall end on and include the later of the date the Holders receive the notice referred to in clause (iii) of Section 7(b) and the date referred to in such notice. In the event the Company declares a Grace Period, the period during which the Company is required to maintain the effectiveness of an Initial Shelf Registration Statement or a Registration Statement filed pursuant to a Demand Registration Request shall be extended by the number of days during which such Grace Period is in effect.

## 8. Piggyback Registration

(a) If at any time, and from time to time, the Company proposes to—

(A) file a registration statement under the Securities Act with respect to an underwritten offering of New Securities of the Company or any securities convertible or exercisable into New Common Stock of the Company (other than with respect to a registration statement (i) on Form S-8 or any successor form thereto, (ii) on Form S-4 or any successor form thereto or (iii) another form not available for registering the Registrable Securities for sale to the public), whether or not for its own account; or

(B) conduct an underwritten offering constituting a “takedown” of a class of New Securities or any securities convertible or exercisable into New Common Stock registered under a shelf registration statement previously filed by the Company;

the Company shall give written notice (the “*Piggyback Notice*”) of such proposed filing or underwritten offering to the Holders at least ten (10) Business Days before the anticipated filing date (provided that in the case of a “bought deal,” “registered direct offering” or “overnight transaction” (a “*Bought Deal*”), such Piggyback Notice shall be given not less than two (2) Business Days prior to the expected date of commencement of marketing efforts). Such notice shall include the number and class of securities proposed to be registered or offered, the proposed date of filing of such registration statement or the conduct of such underwritten offering, any proposed means of distribution of such securities, any proposed managing underwriter of such securities and a good faith estimate by the Company of the proposed maximum offering price of such securities as such price is proposed to appear on the front cover page of such registration statement (or, in the case of an Underwritten Offering, would appear on the front cover page of a registration statement), and shall offer the Holders the opportunity to register such amount of Registrable Securities as each Holder may request on the same terms and conditions as the registration of the Company’s and/or the holders of other securities of the Company securities, as the case may be (a “*Piggyback Offering*”). Subject to Section 8(b), the Company shall use its commercially reasonable efforts to cause the managing underwriter or underwriters in the case of a proposed underwritten offering to permit each Holder who has requested in writing to participate pursuant to this Section 8(a) to include in such Piggyback Offering all Registrable Securities for which the Company has received written requests for inclusion within five (5) Business Days after the date the Piggyback Notice is given (provided that in the case of a Bought Deal, such written requests for inclusion must be received within two (2) Business Days after the date the Piggyback Notice is given); *provided, however*, that in the case of the filing of a registration statement, such Registrable Securities are not otherwise registered pursuant to an existing and effective Shelf Registration Statement under this Agreement, but in such case, the Company shall include such Registrable Securities in such underwritten offering if the Shelf Registration Statement may be utilized for the offering and sale of the Registrable Securities requested to be offered; *provided further, however*, that in the case of an underwritten offering in the form of a “takedown” under a shelf registration statement, such Registrable Securities are covered by an existing and effective Shelf Registration Statement that may be utilized for the offering and sale of the Registrable Securities requested to be offered.

(b) The Company will cause the managing underwriter or underwriters of the proposed offering to permit the Holders that have requested Registrable Securities to be included in the Piggyback Offering to include all such Registrable Securities on the same terms and conditions as any similar securities, if any, of the Company. Notwithstanding the foregoing, if the managing underwriter or underwriters of such underwritten offering advises the Company and the selling Holders in writing that, in its view, the total amount of securities that the Company, such Holders and any other holders entitled to participate in such offering ("*Other Holders*") propose to include in such offering is such as to materially adversely affect the success of such underwritten offering, then:

(A) if such Piggyback Offering is an underwritten primary offering by the Company for its own account, the Company will include in such Piggyback Offering: (i) *first*, all securities to be offered by the Company; (ii) *second*, up to the full amount of securities requested to be included in such Piggyback Offering by the Holders; and (iii) *third*, up to the full amount of securities requested to be included in such Piggyback Offering by all Other Holders;

(B) if such Piggyback Offering is an underwritten secondary offering for the account of Other Holders exercising "demand" rights (including pursuant to a Demand Registration Request), the Company will include in such registration: (i) *first*, all securities of the Other Holders exercising "demand" rights (including pursuant to a Demand Registration Request) requested to be included therein; (ii) *second*, up to the full amount of securities requested to be included in such Piggyback Offering by the Holders entitled to participate therein, allocated pro rata among such Holders on the basis of the amount of securities requested to be included therein by each such Holder; (C) *third*, up to the full amount of securities proposed to be included in the registration by the Company; and (D) *fourth*, up to the full amount of securities requested to be included in such Piggyback Offering by the Other Holders entitled to participate therein, allocated pro rata among such Other Holders on the basis of the amount of securities requested to be included therein by each such Other Holder;

such that, in each case, the total amount of securities to be included in such Piggyback Offering is the full amount that, in the view of such managing underwriter, can be sold without materially adversely affecting the success of such Piggyback Offering.



(c) If at any time after giving the Piggyback Notice and prior to the time sales of securities are confirmed pursuant to the Piggyback Offering, the Company determines for any reason not to register or delay the registration of the Piggyback Offering, the Company may, at its election, give notice of its determination to all Holders, and in the case of such a determination, will be relieved of its obligation to register any Registrable Securities in connection with the abandoned or delayed Piggyback Offering, without prejudice.

(d) Any Holder of Registrable Securities requesting to be included in a Piggyback Offering may withdraw its request for inclusion by giving written notice to the Company of its intention to withdraw from that registration, at least three (3) Business Days prior to the anticipated Effective Date of the Registration Statement filed in connection with such Piggyback Offering, or in the case of a Piggyback Offering constituting a “takedown” off of a shelf registration statement, at least three (3) Business Days prior to the anticipated date of the filing by the Company under Rule 424 of a supplemental prospectus (which shall be the preliminary supplemental prospectus, if one is used in the “takedown”) with respect to such offering; *provided, however*, that (i) the Holder’s request be made in writing and (ii) the withdrawal will be irrevocable and, after making the withdrawal, a Holder will no longer have any right to include its Registrable Securities in that Piggyback Offering.

9. Registration Procedures. If and when the Company is required to effect any registration under the Securities Act as provided in Sections 2(a), 5(a), 6 or 8 of this Agreement, the Company shall use its commercially reasonable efforts to:

(a) prepare and file with the Commission the requisite Registration Statement to effect such registration and thereafter use its commercially reasonable efforts to cause such Registration Statement to become and remain effective, subject to the limitations contained herein;

(b) prepare and file with the Commission such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective and to comply with the provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by such Registration Statement until such time as all of such Registrable Securities have been disposed of in accordance with the method of disposition set forth in such Registration Statement, subject to the limitations contained herein;

(c) (i) before filing a Registration Statement or Prospectus or any amendments or supplements thereto, at the Company's expense, furnish to the Holders whose securities are covered by the Registration Statement, upon request, copies of all such documents, other than documents that are incorporated by reference into such Registration Statement or Prospectus, proposed to be filed and such other documents reasonably requested by such Holders (which may be furnished by email), and afford Counsel to the Holders a reasonable opportunity to review and comment on such documents; and (ii) in connection with the preparation and filing of each such Registration Statement pursuant to this Agreement, (A) upon reasonable advance notice to the Company, give each of the foregoing such reasonable access to all pertinent financial and other records, corporate documents and properties of the Company as shall be necessary, in the reasonable opinion of Counsel to the Holders and such underwriters, to conduct a reasonable due diligence investigation for purposes of the Securities Act and Exchange Act, and (B) upon reasonable advance notice to the Company and during normal business hours, provide such reasonable opportunities to discuss the business of the Company with its officers, directors, employees and the independent public accountants who have certified its financial statements as shall be necessary, in the reasonable opinion of Counsel to the Holders and such underwriters, to conduct a reasonable due diligence investigation for purposes of the Securities Act and the Exchange Act; provided that any Holder, underwriter, Counsel of Holder or representative of any Holder or underwriter requesting or receiving such information or access shall agree to be bound by reasonable confidentiality agreements and procedures with respect thereto;

(d) notify each selling Holder of Registrable Securities, promptly after the Company receives notice thereof, of the time when such Registration Statement has been declared effective or a supplement to any Prospectus forming a part of such Registration Statement has been filed;

(e) with respect to any offering of Registrable Securities, furnish to each selling Holder of Registrable Securities, and the managing underwriters for such Underwritten Offering, if any, without charge, upon request, such number of copies of the applicable Registration Statement, each amendment and supplement thereto, the Prospectus included in such Registration Statement (including each preliminary Prospectus, final Prospectus, and any other Prospectus (including any Prospectus filed under Rule 424, Rule 430A or Rule 430B promulgated under the Securities Act and any "issuer free writing prospectus" as such term is defined under Rule 433 promulgated under the Securities Act), all exhibits and other documents filed therewith and such other documents as such seller or such managing underwriters may reasonably request including in order to facilitate the disposition of the Registrable Securities owned by such seller, and upon request, a copy of any and all transmittal letters or other correspondence to or received from, the Commission or any other governmental authority relating to such offer;

(f) (i) register or qualify all Registrable Securities covered by such Registration Statement under such other securities or Blue Sky laws of such states or other jurisdictions of the United States of America as the Holders covered by such Registration Statement shall reasonably request in writing, (ii) keep such registration or qualification in effect for so long as such Registration Statement remains in effect and (iii) take any other action that may be necessary or reasonably advisable to enable such Holders to consummate the disposition in such jurisdictions of the securities to be sold by such Holders, except that the Company shall not for any such purpose be required to qualify generally to do business as a foreign corporation in any jurisdiction wherein it would not but for the requirements of this subsection (f) be obligated to be so qualified, to subject itself to taxation in such jurisdiction or to consent to general service of process in any such jurisdiction;

(g) cause all Registrable Securities included in such Registration Statement to be registered with or approved by such other federal or state governmental agencies or authorities as necessary upon the opinion of counsel to the Company or Counsel to the Holders of Registrable Securities included in such Registration Statement to enable such Holder or Holders thereof to consummate the disposition of such Registrable Securities in accordance with their intended method of distribution thereof;

(h) with respect to any Underwritten Offering, obtain and, if obtained, furnish to each Holder that is named as an underwriter in such Underwritten Offering and each other underwriter thereof, a signed

(A) opinion of outside counsel for the Company (including a customary 10b-5 statement), dated the date of the closing under the underwriting agreement and addressed to the underwriters, reasonably satisfactory (based on the customary form and substance of opinions of issuers' counsel customarily given in such an offering) in form and substance to such underwriters, and

(B) "comfort" letter, dated the date of the underwriting agreement and another dated the date of the closing under the underwriting agreement and addressed to the underwriters and signed by the independent public accountants who have certified the Company's financial statements included or incorporated by reference in such registration statement, reasonably satisfactory (based on the customary form and substance of "comfort" letters of issuers' independent public accountant customarily given in such an offering) in form and substance to such underwriters,

in each case, covering substantially the same matters with respect to such Registration Statement (and the Prospectus included therein) and, in the case of the accountants' comfort letter, with respect to events subsequent to the date of such financial statements, as are customarily covered in opinions of issuer's counsel and in accountants' comfort letters delivered to underwriters in such types of offerings of securities;

(i) notify each Holder of Registrable Securities included in such Registration Statement at any time when a Prospectus relating thereto is required to be delivered under the Securities Act, upon discovery that, or upon the happening of any event as a result of which, the Prospectus included in such Registration Statement, as then in effect, includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading and for which the Company chooses to suspend the use of the Registration Statement and Prospectus in accordance with the terms of this Agreement, and, at the written request of any such Holder, promptly prepare and furnish to it a reasonable number of copies of a supplement to or an amendment of such Prospectus as may be necessary so that, as thereafter delivered to the purchasers of such securities, such Prospectus, as supplemented or amended, shall not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(j) notify the Holders of Registrable Securities included in such Registration Statement promptly of any request by the Commission for the amending or supplementing of such Registration Statement or Prospectus or for additional information;

(k) advise the Holders of Registrable Securities included in such Registration Statement promptly after the Company receives notice or obtains knowledge of any order suspending the effectiveness of a registration statement relating to the Registrable Securities at the earliest practicable moment and promptly use its commercially reasonable efforts to obtain the withdrawal;

(l) otherwise comply with all applicable rules and regulations of the Commission and any other governmental agency or authority having jurisdiction over the offering of Registrable Securities, and make available to its stockholders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve (12) months, but not more than eighteen (18) months, beginning with the first (1<sup>st</sup>) full calendar month after the Effective Date of such Registration Statement, which earnings statement shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 promulgated thereunder and which requirement will be deemed satisfied if the Company timely files complete and accurate information on Form 10-Q and 10-K and Current Reports on Form 8-K under the Exchange Act and otherwise complies with Rule 158 under the Securities Act;

(m) provide and cause to be maintained a transfer agent and registrar for the Registrable Securities included in a Registration Statement no later than the Effective Date thereof;

(n) enter into such agreements (including an underwriting agreement in customary form) and take such other actions as the Holders beneficially owning a majority of the Registrable Securities included in a Registration Statement or the underwriters, if any, shall reasonably request in order to expedite or facilitate the disposition of such Registrable Securities, including customary indemnification; and provide reasonable cooperation, including causing at least one (1) executive officer and a senior financial officer to use their commercially reasonable efforts to attend and participate in “road shows” and other information meetings organized by the underwriters, if any, as customary and reasonably requested; *provided, however*, that the Company shall have no obligation to participate in more than two (2) “road shows” in any twelve (12)-month period and such participation shall not unreasonably interfere with the business operations of the Company;

(o) if requested by the managing underwriter(s) or the Holders beneficially owning a majority of the Registrable Securities being sold in connection with an Underwritten Offering, promptly incorporate in a prospectus supplement or post-effective amendment such information relating to the plan of distribution for such shares of Registrable Securities provided to the Company in writing by the managing underwriters and the Holders of a majority of the Registrable Securities being sold and that is required to be included therein relating to the plan of distribution with respect to such Registrable Securities, including without limitation, information with respect to the number of Registrable Securities being sold to such underwriters, the purchase price being paid therefor by such underwriters and with respect to any other terms of the Underwritten Offering of the Registrable Securities to be sold in such offering, and make any required filings with respect to such information relating to the plan of distribution as soon as practicable after notified of the information;

(p) cooperate with the Holders of Registrable Securities included in a Registration Statement and the managing underwriter(s), if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends, and enable such Registrable Securities to be in such share amounts and registered in such names as the managing underwriters, or, if none, the Holders beneficially owning a majority of the Registrable Securities being offered for sale, may reasonably request at least three (3) Business Days prior to any sale of Registrable Securities to the underwriters;

(q) cause all Registrable Securities included in a Registration Statement to be listed on a national securities exchange on which similar securities issued by the Company are then listed, if at all, and if no similar securities issued by the Company are listed on a national securities exchange, to use commercially reasonable efforts to list the Registrable Securities included in a Registration Statement on a national securities exchange designated by the Majority Holders; and

(r) otherwise use its commercially reasonable efforts to take all other steps necessary to effect the registration of such Registrable Securities contemplated hereby.

In addition, at least ten (10) Trading Days prior to the first anticipated filing date of a Registration Statement for any registration under this Agreement, the Company will notify each Holder of the information the Company requires from that Holder, including any update to or confirmation of the information contained in the Selling Stockholder Questionnaire, if any, which shall be completed and delivered to the Company promptly upon request and, in any event, within five (5) Trading Days prior to the applicable anticipated filing date; and *provided further* that any Registrable Securities of a Holder shall not be included in meeting any demand threshold set forth in this Agreement if it has not promptly provided a Selling Stockholder Questionnaire, or updates thereto, as reasonably requested by the Company. Each Holder further agrees that it shall not be entitled to be named as a selling security-holder in the Registration Statement or use the Prospectus for offers and resales of Registrable Securities at any time, unless such Holder has returned to the Company a completed and signed Selling Stockholder Questionnaire and a response to any requests for further information as described in the previous sentence and, if an Underwritten Offering, entered into an underwriting agreement with the underwriters and a lock-up letter in accordance with Section 6(b) and Section 11, as applicable. If a Holder of Registrable Securities returns a Selling Stockholder Questionnaire or a request for further information, in either case, after its respective deadline, the Company shall be permitted to exclude such Holder from being a selling security holder in the Registration Statement or any pre-effective or post-effective amendment thereto. Each Holder acknowledges and agrees that the information in the Selling Stockholder Questionnaire or request for further information as described in this Section 9 will be used by the Company in the preparation of the Registration Statement and hereby consents to the inclusion of such information in the Registration Statement.

10. Registration Expenses. All fees and expenses incident to the Company's performance of or compliance with its obligations under this Agreement (excluding any underwriting discounts, fees or selling commissions or broker or similar commissions or fees, or transfer taxes of any Holder) shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses (A) with respect to filings required to be made with any Trading Market on which the New Securities are then listed for trading, if any, (B) with respect to compliance with applicable state securities or Blue Sky laws (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities and determination of the eligibility of the Registrable Securities for investment under the laws of such jurisdictions as requested by the Holders) and (C) if not previously paid by the Company in connection with an issuer filing, with respect to any filing that may be required to be made by any broker through which a Holder intends to make sales of Registrable Securities with the Financial Industry Regulatory Authority ("*FINRA*") pursuant to FINRA Rule 5110, so long as the broker is receiving no more than a customary brokerage commission in connection with such sale, (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities and of printing prospectuses if the printing of prospectuses is reasonably requested by the Holders of a majority of the Registrable Securities included in the Registration Statement), (iii) messenger, telephone and delivery expenses, (iv) fees and disbursements of counsel for the Company, (v) the reasonable fees and expenses incurred in connection with any road show for Underwritten Offerings, (vi) Securities Act liability insurance, if the Company so desires such insurance, and (vii) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company will pay the reasonable fees and disbursements of one Counsel to the Holders, including, for the avoidance of doubt, any expenses of Counsel to the Holders in connection with the filing or amendment of any Registration Statement, Prospectus or free writing prospectus hereunder or any Underwritten Offering.

11. Lockups.

(a) In connection with any Underwritten Offering or other underwritten public offering of equity securities by the Company, no Holder who participates in such offering shall effect any public sale or distribution (including sales pursuant to Rule 144) of equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such securities, without prior written consent from the Company and the Majority Holders, during the seven (7) days prior to and the sixty (60)-day period beginning on the date of closing of such offering (the “*Lockup Period*”), except as part of such offering; provided that nothing herein will prevent any Holder from making a distribution of Registrable Securities to any of its partners, members or stockholders thereof or a transfer of Registrable Securities to an Affiliate or Related Fund that is otherwise in compliance with the applicable securities laws, so long as such distributees or transferees, as applicable, agree to be bound by the restrictions set forth in this Section 11(a). Each such Holder agrees to execute a lock-up agreement in favor of the Company’s underwriters to such effect. The provisions of this Section 11(a) will no longer apply to a Holder once such Holder ceases to hold Registrable Securities.

(b) In connection with any Underwritten Offering, the Company shall not effect any public sale or distribution of equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such securities, without prior written consent from the Majority Holders, during the Lockup Period, except as part of such offering, provided, that such Lockup Period restrictions are applicable on substantially similar terms to the Majority Holders. The Company agrees to execute a lock-up agreement in favor of the underwriters in any relevant offering to such effect. Notwithstanding the foregoing, the Company may effect a public sale or distribution of securities of the type described above and during the periods described above if such sale or distribution is made pursuant to registrations on Form S-4 or Form S-8 or as part of any registration of securities of offering and sale to employees, directors or consultants of the company and its subsidiaries pursuant to any employee stock plan or other employee benefit plan arrangement.

(c) In connection with any Underwritten Offering, the Company shall cause its executives officers and directors to not effect any public sale or distribution of equity securities of the Company, or any securities convertible into or exchangeable or exercisable for such securities, without prior written consent from the Majority Holders, during the Lockup Period, except as part of such offering, provided, that such Lockup Period restrictions are applicable on substantially similar terms to the Majority Holders. The Company agrees to cause its executive officers and directors to execute a lock-up agreement in favor of the underwriters in any relevant offering to such effect.

12. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify, defend and hold harmless each Holder, the officers, directors, agents, partners, members, investment manager, managers, Affiliates and employees of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, partners, members, investment manager, managers, agents and employees of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reimbursement of reasonable and documented costs of preparation and investigation and reasonable attorneys' fees of one legal counsel) and expenses (collectively, "*Losses*"), to which any of them may become subject, that arise out of or are based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus or (ii) any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or form of prospectus or supplement thereto, in the light of the circumstances under which they were made) not misleading, except to the extent, but only to the extent, that (A) such untrue statements, alleged untrue statements, omissions or alleged omissions are based upon information regarding such Holder furnished in writing to the Company by or on behalf of such Holder expressly for use therein, or (B) such information relates to such Holder's proposed method of distribution of Registrable Securities and was provided by such Holder in writing to the Company expressly for use in the Registration Statement, such Prospectus or such form of Prospectus or in any amendment or supplement thereto, or (C) in the case of an occurrence of an event of the type specified in Section 9(i), related to the use by a Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated or defective and prior to the receipt by such Holder of the Advice contemplated and defined in Section 16(c) below, but only if and to the extent that following the receipt of the Advice, the misstatement or omission giving rise to such Loss would have been corrected. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of an Indemnified Party (as defined in Section 12(c)), shall survive the transfer of the Registrable Securities by the Holders, and shall be in addition to any liability which the Company may otherwise have.



(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its respective directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, arising out of or based upon any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or any form of prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus, or any form of prospectus or supplement thereto, in the light of the circumstances under which they were made) not misleading (i) to the extent, but only to the extent, that such untrue statements or omissions are based upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein or (ii) to the extent, but only to the extent, that such information relates to such Holder's proposed method of distribution of Registrable Securities and was provided by such Holder in writing to the Company expressly for use in a Registration Statement, such Prospectus or such form of Prospectus or in any amendment or supplement thereto or (iii) in the case of an occurrence of an event of the type specified in Section 9(i), to the extent, but only to the extent, related to the use by such Holder of an outdated or defective Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated or defective and prior to the receipt by such Holder of the Advice contemplated in Section 16(c), but only if and to the extent that following the receipt of the Advice the misstatement or omission giving rise to such Loss would have been corrected. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the net proceeds received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of an Indemnified Party (as defined in Section 12(c)), shall survive the transfer of the Registrable Securities by the Holders, and shall be in addition to any liability which the Holder may otherwise have.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an "*Indemnified Party*"), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the "*Indemnifying Party*") in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all reasonable fees and expenses incurred in connection with the defense thereof; *provided*, that the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that such failure shall have materially and adversely prejudiced the Indemnifying Party.

An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses; (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding; or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and another party, and such Indemnified Party shall have been advised by counsel that in the reasonable judgment of such counsel a conflict of interest exists if the same counsel were to represent such Indemnified Party and such other party; *provided*, that the Indemnifying Party shall not be liable for the reasonable and documented fees and expenses of more than one separate firm of attorneys at any time for the same Proceeding for all Indemnified Parties (unless in the reasonable judgment of counsel to the Indemnified Party a conflict of interest exists if the same counsel were to represent all Indemnified Parties). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld, delayed or conditioned. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

Subject to the terms of this Agreement, all reasonable and documented fees and expenses of the Indemnified Party (including reasonable and documented fees and expenses of one legal counsel to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section 12(c)) shall be paid to the Indemnified Party, as incurred, with reasonable promptness after receipt of written notice thereof to the Indemnifying Party; *provided*, that the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally judicially determined to not be entitled to indemnification hereunder. The failure to deliver written notice to the Indemnifying Party within a reasonable time of the commencement of any such action shall not relieve such Indemnifying Party of any liability to the Indemnified Party under this Section 12, except to the extent that the Indemnifying Party is materially and adversely prejudiced in its ability to defend such action.

(d) Contribution. If a claim for indemnification under Section 12(a) or (b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 12(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 12(d), no Holder shall be required to contribute, in the aggregate, any amount in excess of the amount by which the net proceeds actually received by such Holder from the sale of the Registrable Securities subject to the Proceeding exceeds the amount of any damages that such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

13. Section 4(a)(7), Rule 144 and Rule 144A; Other Exemptions. With a view to making available to the Holders of Registrable Securities the benefits of Rule 144 and Rule 144A promulgated under the Securities Act and other rules and regulations of the Commission that may at any time permit a Holder of Registrable Securities to sell securities of the Company without registration, until such time as when no Registrable Securities remain outstanding, the Company covenants that it will (i) if it is subject to the reporting requirement of Section 13 or 15(d) of the Exchange Act, file in a timely manner all reports and other documents required, if any, to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted thereunder, or (ii) if it is not subject to the reporting requirement of Section 13 or 15(d) of the Exchange Act, make available information necessary to comply with Section 4(a)(7) of the Securities Act and Rule 144 and Rule 144A, if available with respect to resales of the Registrable Securities under the Securities Act, at all times, all to the extent required from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by (x) Section 4(a)(7) of the Securities Act and Rule 144 and Rule 144A promulgated under the Securities Act (if available with respect to resales of the Registrable Securities), as such rules may be amended from time to time, or (y) any other rules or regulations now existing or hereafter adopted by the Commission which replace the rules and regulations described in the preceding sentence. Upon the reasonable request of any Holder of Registrable Securities, the Company will deliver to such Holder a written statement as to whether it has complied with such information requirements, and, if not, the specific reasons for non-compliance.

14. Transfer of Registration Rights. Any Holder may freely assign its rights hereunder on a pro rata basis in connection with any sale, transfer, assignment, or other conveyance (any of the foregoing, a “*Transfer*”) of Registrable Securities to any transferee or assignee; *provided*, that all of the following additional conditions are satisfied: (a) such Transfer is effected in accordance with applicable securities laws; (b) such transferee or assignee agrees in writing to become subject to the terms of this Agreement; and (c) the Company is given written notice by such Holder of such Transfer, stating the name and address of the transferee or assignee and identifying the Registrable Securities with respect to which such rights are being transferred or assigned and provide the amount of any other capital stock of the Company beneficially owned by such transferee or assignee; *further provided*, that (i) any rights assigned hereunder shall apply only in respect of the Registrable Securities that are Transferred and not in respect of any other securities that the transferee or assignee may hold and (ii) any Registrable Securities that are Transferred may cease to constitute Registrable Securities following such Transfer in accordance with the terms of this Agreement.

15. Further Assurances. Each of the parties hereto shall execute all such further instruments and documents and take all such further action as any other party hereto may reasonably require in order to effectuate the terms and purposes of this Agreement.

16. Miscellaneous.

(a) Remedies. Any Person having rights under any provision of this Agreement shall be entitled to enforce such rights specifically to recover damages caused by reason of any breach of any provision of this Agreement and to exercise all other rights granted by law. The parties hereto agree and acknowledge that money damages may not be an adequate remedy for any breach of the provisions of this Agreement and that any party may in its sole discretion apply to any court of law or equity of competent jurisdiction (without posting any bond or other security) for specific performance and for other injunctive relief in order to enforce or prevent violation of the provisions of this Agreement.

(b) Compliance. Each Holder covenants and agrees that it will comply with the prospectus delivery requirements of the Securities Act as applicable to it (unless an exemption therefrom is available) in connection with sales of Registrable Securities pursuant to any Registration Statement and shall sell the Registrable Securities only in accordance with a method of distribution described in each Registration Statement.

(c) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of a Grace Period or any event of the kind described in Section 9(i), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the “*Advice*”) by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company may provide appropriate stop orders to enforce the provisions of this paragraph.

(d) No Inconsistent Agreements. The Company shall not hereafter enter into any agreement with respect to its securities which is inconsistent with or violates the rights granted to the Holders in this Agreement.

(e) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, or waived unless the same shall be in writing and signed by the Company and Holders holding at least a majority of the then outstanding Registrable Securities (with the New Warrants included on an as exercised basis, assuming cashless exercise of the New Existing Equity Warrants); *provided, however*, that any party may give a waiver as to itself in writing; *provided further, however*, that no amendment, modification, supplement, or waiver that disproportionately and adversely affects, alters, or changes the interests of any Holder shall be effective against such Holder without the prior written consent of such Holder; *provided further, however*, that the definition of “Holders” in Section 1 and the provisions of Section 2(c) and Section 11 may not be amended, modified or supplemented, or waived unless in writing and signed by all Holders; and *provided further* that the waiver of any provision with respect to any Registration Statement or offering may be given by Holders holding at least a majority of the then outstanding Registrable Securities entitled to participate in such offering or, if such offering shall have been commenced, having elected to participate in such offering. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of certain Holders and that does not directly or indirectly affect the rights of other Holders may be given by Holders of a majority of the Registrable Securities to which such waiver or consent relates; *provided, however*, that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the immediately preceding sentence. No waiver of any terms or conditions of this Agreement shall operate as a waiver of any other breach of such terms and conditions or any other term or condition, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision hereof. No written waiver hereunder, unless it by its own terms explicitly provides to the contrary, shall be construed to effect a continuing waiver of the provisions being waived and no such waiver in any instance shall constitute a waiver in any other instance or for any other purpose or impair the right of the party against whom such waiver is claimed in all other instances or for all other purposes to require full compliance with such provision. The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of such provision and shall not affect the right of such party thereafter to enforce each provision of this Agreement in accordance with its terms. Notwithstanding anything to the contrary in this Section 16(e), any amendment, modification, supplement, or waiver that otherwise requires under this Section 16(e) the consent of the Holders of a *majority* of the then outstanding Registrable Securities shall, from and after the one year anniversary of the Plan Effective Date, require under this Section 16(e), the unanimous consent of the Initial Holders.

(f) Notices. Any notice or other communication required or which may be given hereunder shall be in writing and shall be sent by certified or regular mail, by private national courier service (return receipt requested, postage prepaid), by personal delivery, by electronic mail or by facsimile transmission. Such notice or communication shall be deemed given (i) if mailed, two days after the date of mailing, (ii) if sent by national courier service, one Business Day after being sent, (iii) if delivered personally, when so delivered, (iv) if sent by electronic mail, on the Business Day such electronic mail is transmitted, or (v) if sent by facsimile transmission, on the Business Day such facsimile is transmitted, in each case as follows:

(A) If to the Company:

GulfMark Offshore, Inc.  
842 West Sam Houston Parkway North, Suite 400  
Houston, Texas 77024  
Attn: James M. Mitchell  
Facsimile: (713) 369-7386  
Email: James.Mitchell@gulfmark.com  
with a copy (which shall not constitute notice) to:

Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
Attn: Gary Holtzer  
Ted Waksman  
Facsimile: (212) 310-8007  
E-mail: gary.holtzer@weil.com  
ted.waksman@weil.com

(B) If to the Holders (or to any of them), at the address provided on their respective signature page hereto.

If any time period for giving notice or taking action hereunder expires on a day which is a Saturday, Sunday or legal holiday in the State of New York or the jurisdiction in which the Company's principal office is located, the time period shall automatically be extended to the Business Day immediately following such Saturday, Sunday or legal holiday.

(g) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns (including any trustee in bankruptcy). In addition, and whether or not any express assignment shall have been made, the provisions of this Agreement which are for the benefit of the Holders of Registrable Securities (or any portion thereof) as such shall be for the benefit of and enforceable by any subsequent holder of any Registrable Securities (or of such portion thereof); provided, that such subsequent holder of Registrable Securities shall be required to execute a joinder to this Agreement in form and substance reasonably satisfactory to the Company, agreeing to be bound by its terms. No assignment or delegation of this Agreement by the Company, or any of the Company's rights, interests or obligations hereunder, shall be effective against any Holder without the prior written consent of such Holder, and, for the avoidance of doubt, no Initial Holder shall assign or delegate the unanimous consent rights provided for in Section 16(e) without the written consent of the Company.

(h) Execution and Counterparts. This Agreement may be executed simultaneously in two or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together shall constitute one and the same Agreement.

(i) Delivery by Facsimile. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or other electronic means, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or other electronic means to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or other electronic means as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

(j) Governing Law; Venue. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of New York or any other jurisdiction) to the extent such rules or provisions would cause the application of the laws of any jurisdiction other than the State of New York. Each of the parties to this Agreement consents and agrees that any action to enforce this Agreement or any dispute, whether such dispute arises in law or equity, arising out of or relating to this Agreement, shall be brought exclusively in the United States District Court for the Southern District of New York or any New York State Court sitting in New York City. The parties hereto consent and agree to submit to the exclusive jurisdiction of such courts. Each of the parties to this Agreement waives and agrees not to assert in any such dispute, to the fullest extent permitted by applicable law, any claim that (i) such party and such party's property is immune from any legal process issued by such courts or (ii) any litigation or other proceeding commenced in such courts is brought in an inconvenient forum. The parties hereby agree that mailing of process or other papers in connection with any such action or proceeding to an address provided in writing by the recipient of such mailing, or to the notice addresses set forth in Section 16(f), or in such other manner as may be permitted by law, shall be valid and sufficient service thereof and hereby waive any objections to service in the manner herein provided.

(k) Waiver of Jury Trial. Each of the parties to this Agreement hereby agrees to waive its respective rights to a jury trial of any claim or cause of action based upon or arising out of this Agreement. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including contract claims, tort claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into this Agreement, that each has already relied on this waiver in entering into this Agreement, and that each will continue to rely on this waiver in their related future dealings. Each party hereto further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 16(k) AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

(l) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

(m) Descriptive Headings; Interpretation; No Strict Construction. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular forms of nouns, pronouns, and verbs shall include the plural and vice versa. Reference to any agreement, document, or instrument means such agreement, document, or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and, if applicable, hereof. The words “include”, “includes” or “including” in this Agreement shall be deemed to be followed by “without limitation”. The use of the words “or,” “either” or “any” shall not be exclusive. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. All references to laws, rules, regulations and forms in this Agreement shall be deemed to be references to such laws, rules, regulations and forms, as amended from time to time or, to the extent replaced, the comparable successor thereto in effect at the time. All references to agencies, self-regulatory organizations or governmental entities in this Agreement shall be deemed to be references to the comparable successors thereto from time to time.



(n) Entire Agreement. This Agreement and any certificates, documents, instruments and writings that are delivered pursuant hereto, constitutes the entire agreement and understanding of the parties in respect of the subject matter hereof and supersedes all prior understandings, agreements or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof.

(o) Termination. The obligations of the Company and of any Holder, other than those obligations contained in Section 12 and this Section 16, shall terminate with respect to the Company and such Holder as soon as such Holder no longer holds any Registrable Securities.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

**GULFMARK OFFSHORE, INC.**

By: /s/ Quintin V. Kneen  
Name: Quintin V. Kneen  
Title: President and Chief Executive Officer

[Signature page to Registration Rights Agreement]

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IN WITNESS WHEREOF, the undersigned parties have executed this Registration Rights Agreement as of the date first written above.

HOLDERS:

**5 Essex, L.P.**

By: Captain Q, LLC, its general partner

By: /s/ Noel Nesser

Name: Noel Nesser

Title: CFO & Treasurer

- ☐ By checking this box, the Holder signing above hereby requests the inclusion of \_\_\_\_\_ shares of its New Common Stock, \_\_\_\_\_ of its New Noteholder Warrants (as applicable), and \_\_\_\_\_ of its New Existing Equity Warrants (as applicable), constituting all of its Registrable Securities, in the Initial Shelf Registration Statement.
- ☐ By checking this box, the Holder signing above hereby requests the inclusion of \_\_\_\_\_ shares of its New Common Stock, \_\_\_\_\_ of its New Noteholder Warrants (as applicable), and \_\_\_\_\_ of its New Existing Equity Warrants (as applicable), constituting less than all of its Registrable Securities, in the Initial Shelf Registration Statement.
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**CANYON BLUE CREDIT INVESTMENT  
FUND L.P.**

By: Canyon Capital Advisors LLC,  
its co-Investment Advisor

By: /s/ Jonathan M. Kaplan  
Name: Jonathan M. Kaplan  
Title: Authorized Signatory

By: Canyon Partners Real Estate LLC,  
its co-Investment Advisor

By: /s/ Jonathan M. Kaplan  
Name: Jonathan M. Kaplan  
Title: Authorized Signatory

- ☐ By checking this box, the Holder signing above hereby requests the inclusion of \_\_\_\_\_ shares of its New Common Stock, \_\_\_\_\_ of its New Noteholder Warrants (as applicable), and \_\_\_\_\_ of its New Existing Equity Warrants (as applicable), constituting all of its Registrable Securities, in the Initial Shelf Registration Statement.
- ☐ By checking this box, the Holder signing above hereby requests the inclusion of \_\_\_\_\_ shares of its New Common Stock, \_\_\_\_\_ of its New Noteholder Warrants (as applicable), and \_\_\_\_\_ of its New Existing Equity Warrants (as applicable), constituting less than all of its Registrable Securities, in the Initial Shelf Registration Statement.
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**MERCER QIF FUND PLC -MERCER  
INVESTMENT FUND 1**

By: /s/ Jeffrey Peskind

Name: JEFFREY PESKIND

Title: CEO, PHOENIX INVESTMENT ADVISER  
LLC, SUB-INVESTMENT ADVISER

- ☐ By checking this box, the Holder signing above hereby requests the inclusion of \_\_\_\_\_ shares of its New Common Stock, \_\_\_\_\_ of its New Noteholder Warrants (as applicable), and \_\_\_\_\_ of its New Existing Equity Warrants (as applicable), constituting all of its Registrable Securities, in the Initial Shelf Registration Statement.
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**RC GLF 1, LP**

By: /s/ Frederick C. Wasch

Name: Frederick C. Wasch

Title: CFO, Raging Capital Management, LLC,  
General Partner of RC GLF 1, LP

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**Sola Intermediate Fund Ltd**

By: /s/ C.J. Lanktree  
Name: C.J. Lanktree  
Title: Partner

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**TIAA Global Public Investments, LLC - Series  
HY**

By: Teachers Insurance and Annuity Association of  
America, its sole member

By: /s/ Ji Min Shin  
Name: Ji Min Shin  
Title: Director

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**WELLS FARGO CENTRAL PACIFIC  
HOLDINGS, INC.**  
a California corporation

By: /s/ George Wick  
Name: George D. Wick  
Title: Executive Vice President

- ☐ By checking this box, the Holder signing above hereby requests the inclusion of \_\_\_\_\_ shares of its New Common Stock, \_\_\_\_\_ of its New Noteholder Warrants (as applicable), and \_\_\_\_\_ of its New Existing Equity Warrants (as applicable), constituting all of its Registrable Securities, in the Initial Shelf Registration Statement.
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[Signature page to Registration Rights Agreement]