

**Form FMC-133A to Subpart A of Part 540**

FORM FMC-133A

FEDERAL MARITIME COMMISSION

*Guaranty in Respect of Liability for Nonperformance*

Guaranty No. \_\_\_\_\_  
FMC Certificate No. \_\_\_\_\_

1. Whereas \_\_\_\_\_ (Name of applicant) (Hereinafter referred to as the "Applicant") is the Owner or Charterer of the passenger Vessel(s) specified in the annexed Schedule ("the Vessels"), which are or may become engaged in voyages to or from United States ports, and the Applicant desires to establish its financial responsibility in accordance with 46 CFR part 540, subpart A, provided that the Federal Maritime Commission ("FMC") shall have accepted, as sufficient for that purpose, the Applicant's application, supported by this Guaranty, and provided that FMC shall issue to the Applicant a Certificate (Performance) ("Certificate"), the undersigned Guarantor hereby guarantees to discharge the Applicant's legal liability to indemnify the passengers of the Vessels for nonperformance of transportation within the meaning of 46 CFR part 540.2, in the event that:

(1) the passenger makes a request for refund from the Principal in accordance with the ticket contract. If, the ticket contract refund procedure provides less than 180 days, this Guaranty shall be available after written notification to Principal.

(2) If the passenger is unable to resolve the claim within 180 days after nonperformance, as defined in 46 CFR 540.2, occurs, the passenger may submit a claim against the Guaranty as per instructions on the Commission website. The claim must include a copy of the boarding pass, proof and amount of payment, cancellation notice, and dated proof of properly filed claim against the Principal. All documentation must clearly display the vessel and voyage with scheduled and actual date of sailing. And, Guarantor reserves the discretion to require a judgement prior to resolving the claim.

(3) Valid claims must be paid within 90 days of submission to the Guarantor.

2. The Guarantor's liability under this Guaranty in respect to any passenger shall not exceed the amount paid by such passenger; and the aggregate amount of the Guarantor's liability under this Guaranty shall not exceed \$\_\_\_\_\_.

3. The Guarantor's liability under this Guaranty shall attach only in respect of events giving rise to a cause of action against the Applicant, in respect of any of the Vessels, for nonperformance of transportation within the meaning of 46 CFR 540.2, occurring after the Certificate has been granted to the Applicant, and before the expiration date of this Guaranty, which shall be the earlier of the following dates:

(a) The date whereon the Certificate is withdrawn, or for any reason becomes invalid or ineffective; or

(b) The date 30 days after the date of receipt by FMC of notice in writing delivered by certified mail, courier service or other electronic means such as email and fax, that the Guarantor has elected to terminate this Guaranty except that: (i) If, on the date which would otherwise have been the expiration date under the foregoing provisions (a) or (b) of this Clause 3, any of the Vessels is on a voyage whereon passengers have been embarked at a United States port, then the expiration date of this Guaranty shall, in respect of such Vessel, be postponed to the date on which the last passenger on such voyage shall have finally disembarked; and (ii) Such termination shall not affect the liability of the Guarantor for refunds arising from ticket contracts made by the Applicant for the supplying of transportation and other services prior to the date such termination becomes effective.

4. If, during the currency of this Guaranty, the Applicant requests that a vessel owned or operated by the Applicant, and not specified in the annexed Schedule, should become subject to this Guaranty, and if the Guarantor accedes to such request and so notifies FMC in writing or other electronic means such as email and fax, then, provided that within 30 days of receipt of such notice, FMC shall have granted a Certificate, such Vessel shall thereupon be deemed to be one of the Vessels included in the said Schedule and subject to this Guaranty.

5. The Guarantor hereby designates \_\_\_\_\_, with offices at \_\_\_\_\_, as the Guarantor's legal agent for service of process for the purposes of the Rules of the Federal Maritime Commission, in accordance with 46 CFR part 540, subpart A

\_\_\_\_\_  
(Place and Date of Execution)

\_\_\_\_\_  
(Type Name of Guarantor)

\_\_\_\_\_  
(Type Address of Guarantor)

By \_\_\_\_\_  
(Signature and Title)

Schedule of Vessels Referred to in Clause 1

Vessels Added to This Schedule in Accordance With Clause 4